

COUNCIL MEETING

NOVEMBER 5, 2014

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, November 5, 2014 at 9:33 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Mason K. Chock, Sr.
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

Council Chair Furfaro: We will have a public comment period just to take testimony for six (6) people who have already signed up. Next, we will go to our claims section, and then we will be going directly to the Bill. If I may, I want to share a moment of personal privilege. I want to say thank you to the Staff of the County Council and to the Elections Division. They did an outstanding job in this recent Election and that was under the professional guidance of Ricky our Clerk, Jade our Deputy Clerk, and Lyndon our Elections Administrator, and the entire Staff. It was an outstanding team effort for you folks to operate through the Election and I believe I share this with the whole Council: thank you very much and a big *mahalo* for the people of Kaua'i as well. May I get an approval of the agenda?

APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda as circulated, seconded by Councilmember Rapozo, and unanimously carried.

Council Chair Furfaro: Clerk, I would like to go to the public comment portion.

PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Council Chair Furfaro: Thank you. Do we have anybody who is signed up for the public comment portion to deliver comment with no question and answer from the Council?

JADE K. FOUNTAIN-TANIGAWA, Deputy County Clerk: Yes. We have six (6) people registered for the public comment period. The first person is Josephine Bonaparte, followed by Sandra Herndon.

Council Chair Furfaro: Okay. Please come up.

There being no objections, the rules were suspended.

JOSEPHINE BONAPARTE: Good morning, Councilmembers. Thank you for the opportunity to speak to you today. Herbicides, pesticides, suicides— they all equal death. Today was reported in Ontario, Canada, that thirty-seven million (37,000,000) bees died next to genetically modified organism (GMO) corn fields. Those are just little creatures. I am opposed to any repeal of Ordinance No. 960. I want to know what is being sprayed and when it is being sprayed. I want to see barriers to protect the schools, homes, and hospitals from any kind of spray, although I do not think barriers will help much. Even Kirby Kester of BASF here in this room spoke to you and said that barriers will not help, that whatever being sprayed is going to float. It is not a good thing. I do not understand why anybody would want to tear down something that we all worked so hard to put together. Anyway, I am opposed to the repeal. Thank you very much.

Council Chair Furfaro: Thank you, Josephine. Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Sandra Herndon, followed by Maren Orion.

SANDRA HERNDON: Good morning, Council. For the record, my name is Sandra Herndon. I thank you for taking my testimony early. I am in the process of moving, which involves a lot of sorting out and letting go, and that is kind of how I am feeling this morning about sitting here in this chair, addressing a bill which proposes to repeal Ordinance No. 960. A lot of us in the community have worked really hard, as the previous speaker alluded to. I want you to know that we are not done because most of us know that we cannot rely on the State to do these kinds of things. They do not have the political will. It is our situation. It is our community. It is our families that are sick and dying. It is our environment and our island. Needless to say, I am opposed to the repeal of this. I want you to know that we are not going to quit until all of our families are safe. We are not going to quit. You can repeal this if you want to, but we are not going away. I am not moving off the island and I am not letting go of Kaua'i. Thank you.

Council Chair Furfaro: Please use the hand signals. Do not clap. Thank you. Next speaker.

MAREN ORION: *Aloha*, Council. My name is Maren Orion. I want to say thank you for giving me this opportunity to testify this morning. We are all breathing a sigh of relief that the Election has passed and I want to say congratulations to everyone who did get in and thank you to everyone who has served on the Council and all the people who did run in the Election, whether you made it or not. I know everyone put their heart and soul into it. Thank you very much for caring so much about Kaua'i. That is so important. I came here this morning to talk about Ordinance No. 960. I want to say that I am very much in support to taking this appeal of the Courts onto the next level. We have already invested close to two hundred thousand dollars (\$200,000). If we do not invest another twelve thousand dollars (\$12,000), we will just be throwing that money in the garbage; almost two hundred thousand dollars (\$200,000). I think this is a very,

very important landmark case. It is not just about Kaua'i; it is about the whole world. These chemical companies really do not want to have any kind of restraint towards them. What we are asking is so small— to have a boundary between where they are going to be spraying them like the schools, hospitals, and people's houses, and to know what chemicals they are spraying. These chemical companies have spent millions and millions of dollars to keep their operation secretive, to not let us know what products their seeds and food is in. I think we really need to find out what they are trying to keep from us. I want to let you know that I did not grow up on Kaua'i. I grew up in New York on the banks of the Hudson River. There was a big, empty, gigantic anaconda factory right on the banks of the Hudson River where I grew up, that the land was so polluted and ruined by that factory, that even today, sixty (60) years later, it still sits empty on what could be incredibly, prime, beautiful real estate. Because it was so badly polluted, no one can use it. I am just saying that these things have happened in the past and I want to make sure it does not happen to Kaua'i in the future. We have a beautiful island and we need to take care of the *'āina* and we need to take care of our people. I just want to say thank you for continuing your hard work and thank you for working on this. Thank you for everything that you do for us. *Aloha*.

Ms. Fountain-Tanigawa: The next speaker is Margaret Maupin, followed by Susan Heitmann.

MARGARET MAUPIN: My name is Margaret Maupin. I am speaking as an individual, not representing my place of work, Ho'ōla Lāhui Hawai'i Community Health Clinic. Children and their families are forced to endure daily pesticide exposure, either from pesticide drift or volatilization. For the umpteenth time, I offer my testimony as a trained and experienced healthcare provider in Waimea. Sad to say, I am getting better at this. It is distressing how many scientists, doctors, nurses, and other healthcare providers have expressed grave concerns about the large amount of pesticides being sprayed on Kaua'i near schools, hospitals, and neighborhoods. Our concerns are in no way related to profits or making a winning name for ourselves, as other testimonies seem to be. We have nothing to gain except the end of harm to the people and our environment. After piecing my information together, I realize that there is no practical way to sort out this lunacy. For instance, there were five (5) restricted use pesticides (RUPs) found at Waimea Canyon Middle School in every single air sample taken. The combining or layering of just five (5) RUPs creates hundreds, if not thousands, of novel, chemical compounds that are unknown to everyone, even the agrochemical company scientists. Two (2) of the pesticides were also detected at Hanalei Elementary School because historically, these pesticides, one of them Dichlorodiphenyltrichloroethane (DDT), was used in the sugarcane era. Interesting to note is that DDT is still found in one hundred percent (100%) of people tested, even though it was banned in the 70s. In fact, approximately two hundred fifty (250) manmade chemicals are found in the blood of a newborn baby at this time in our history. I present to you a common occurrence that I witness in my practices as a healthcare provider. I have an elementary school patient who experiences nose bleeds, sinus congestion, and wheezing approximately four (4) days a week. This child lives in Kekaha with his mother. When the child is with the other parent on alternate nights, this child's symptoms predictably resolve completely. This parent does not live close to the agrochemical industry. The child's parent asked me, "Is there anything being sprayed that would make it hard for her child to learn?" The parent said that her child works diligently in school and did well, but now her child really struggles with learning, although the child is trying very hard. I have studied Chlorpyrifos enough to conclude that Chlorpyrifos is known to lower intelligence quotient (IQ) and cause other neurological brain disorders.

Chlorpyrifos is one of the top three (3) pesticides most commonly used on Kaua'i. It was banned from home use fourteen (14) plus years ago because it is so toxic. The "good neighbor" policy comes to mind. The pesticide disclosure from the agrochemical companies...

Council Chair Furfaro: Excuse me, that is your three (3) minutes. I will let you make a short summary. Please make it short.

Ms. Maupin: I do not have much left. Thank you. The good neighbor policy comes to mind. The pesticide disclosure from the agrochemical companies is posted after the spraying took place for an entire month. I guess the idea that I am supposed to study the Material Safety Data Sheet (MSDA)— that is shades of eighty (80) possible restricted use pesticides to determine if the symptoms may be related to pesticide exposure. If I could make this determination if the pesticides were causing the illness, I do not see the step to protect this child from getting sick. The next step— do I report to the Department of Agriculture (DOA)? They have never returned my calls. Do I report to the Department of Health (DOH)?

Council Chair Furfaro: Excuse me. I needed you to summarize. I have to follow our rules.

Ms. Maupin: They have never returned my calls. It is not a reason that Ordinance No. 960 would be repealed. Ordinance No. 960 is asking for basic information and protection for our environment and our families.

Council Chair Furfaro: Please stop your reading. I have to follow our rules. This period is for three (3) minutes. Do you have material that you want to pass out to us?

Ms. Maupin: Yes. I have one book for each of you. Chapter 22 is about chronic exposure of pesticides and effects, and it is from the Environmental Protection Agency (EPA)... there are guidelines from the EPA that we are not following here on Kaua'i.

Council Chair Furfaro: Thank you for your testimony.

Ms. Fountain-Tanigawa: The next speaker is Susan Heitmann, followed by Journey Zephier.

Council Chair Furfaro: Before we go any further, for the last speaker, I saw you read from a document, even though I cut your time off. Could we please have a copy of what you read from? Thank you. Could you read those names again?

Ms. Fountain-Tanigawa: Sure. Susan Heitmann, followed by Journey Zephier.

Council Chair Furfaro: Susan, are you here? If not, next speaker please.

JOURNEY ZEPHIER: *Aloha.* My name is Journey Zephier. I am fourteen (14) years old and I go to Kanuikapono Public Charter School. I am here to speak for the seventh generation. Please do in the repeal Ordinance No. 960. We need to know what is being sprayed and all of the environmental and health

impacts. Why would anyone be opposed to small buffer zones around homes and schools? Why have these companies fought so hard to hide the truth? What are they hiding? Why are kids sick? I recently found out that Syngenta, Dow, BASF, DuPont Pioneer, and Monsanto are tried in International Court and found guilty of dozens of human rights violations in Brazil. The charges included murder, threats, assault, cultural and environmental damage, health issues including cancer and birth defects, and this very long list of charges. They were found guilty and fined millions. They were also violating human rights in the United Nations Declaration of the Rights of Indigenous People here on Kaua'i. In my research to be a Youth Ambassador of the United Nations, I discovered that the chemical companies here on Kaua'i are in violation of at least fourteen (14) of the international articles outlining the Indigenous Human Rights and the rights of children. In this international law, they are not supposed to be putting damaging things on the Hawaiian Kingdom lands, nor prior or informed consent if they did. People become sick from the damaging substances and they in the government must pay— it actually says the government must protect the indigenous people from damaging substances, too. What is more damaging than the chemicals being sprayed here more than anyone else? I found out from studying the articles of Declaration that the chemical companies violated this international mandate and that the State of Hawai'i, County of Kaua'i is also in violation for failing to protect the communities in cultural land, water, and traditional hunting gathering. Ordinance No. 960 is at least one of the first steps towards protection and informing the community, which they can give consent or refuse to allow the companies on Hawaiian lands. I am working on a report of Scientific Violations of Rights. I intend to take this to the United Nations to let them know that the Hawaiian people are suffering from the chemical companies and that they are in violation, again, of human rights by law. I will ask for action and help. I implore you to do the right thing and help the people. Please stop defending the companies who have already been found guilty and have no respect for human life. You are supposed to protect us. *Mahalo*.

Council Chair Furfaro: Thank you. Next speaker please.

Ms. Fountain-Tanigawa: That was the last speaker.

Council Chair Furfaro: Okay. Let us continue with our agenda. I want to share with people that those who signed up will be given three (3) minutes when we call you up. There will be an opportunity in this period of time for members to ask questions on your testimony. At the discretion of the Chair, I will give you three (3) minutes only at this time. Let us finish conducting our business here, Jade. Let us go to the minutes.

There being no one else to provide public comment, the meeting was called back to order, and proceeded as follows:

MINUTES of the following meetings of the Council:

October 8, 2014 Council Meeting
October 8, 2014 Public Hearing re: Bill No. 2553
October 22, 2014 Public Hearing re: Bill No. 2555, Draft 1

Councilmember Rapozo moved to approve the Minutes as circulated, seconded by Councilmember Chock, and unanimously carried.

CONSENT CALENDAR:

C 2014-275 Communication (10/15/2014) from the Director of Planning, transmitting the Planning Commission's recommendation regarding extending the sunset date to December 15, 2024, for Additional Dwelling Units (ADU) on Other Than Residentially Zoned Lots: Councilmember Rapozo moved to receive C 2014-275 for the record, seconded by Councilmember Yukimura, and unanimously carried.

C 2014-276 Communication (10/20/2014) from Councilmember Rapozo and Councilmember Kagawa, requesting Council consideration to repeal Chapter 22, Article 23 of the Kaua'i County Code 1987, as amended, Relating to Pesticides and Genetically Modified Organisms: Councilmember Rapozo moved to receive C 2014-276 for the record, seconded by Councilmember Yukimura, and unanimously carried.

C 2014-277 Communication (10/13/2014) from the First Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims Against the County of Kaua'i from July 1, 2014 through September 31, 2014: Councilmember Rapozo moved to receive C 2014-277 for the record, seconded by Councilmember Yukimura, and unanimously carried.

C 2014-278 Communication (10/15/2014) from the Assistant Chief Procurement Officer, transmitting for Council information, the First Quarter Statement of Equipment Purchases for Fiscal Year 2014-2015, pursuant to Section 17 of Ordinance No. B-2014-781, the Operating Budget of the County of Kaua'i for Fiscal Year 2014-2015: Councilmember Rapozo moved to receive C 2014-278 for the record, seconded by Councilmember Yukimura, and unanimously carried.

C 2014-279 Communication (10/16/2014) from the Director of Finance, transmitting for Council information, the Fourth Quarter Estimate of Revenues and Expenditures Report (Periods 1-13) for the Fiscal Year 2013-2014: Councilmember Rapozo moved to receive C 2014-279 for the record, seconded by Councilmember Yukimura, and unanimously carried.

COMMUNICATION:

C 2014-280 Communication (10/22/2014) from the Housing Director, requesting Council approval to decline the repurchase of Unit No. 708 in Ho'okena at Puhi, 2080 Manawalea Street, Lihu'e, Hawai'i, and grant the owner a one-year wavier of the buyback to allow a market sale by the owner: Councilmember Yukimura moved to approve C 2014-280, seconded by Councilmember Rapozo, and unanimously carried.

CLAIMS:

C 2014-281 Communication (10/16/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Lyle M. Otsuka on behalf of Banyan Harbor AOA, for reimbursement of expenses, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Yukimura moved to refer C 2014-281 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Chock, and unanimously carried.

C 2014-282 Communication (10/21/2014) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Marvin "Doug" Gibson and Sharon Lynn Gibson, for damage to their property, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Yukimura moved to refer C 2014-282 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Chock, and unanimously carried.

Council Chair Furfaro: Now, instead of going to the Resolution, I would like to go to the reading on Proposed Draft Bill (No. 2562).

There being no objections, Proposed Draft Bill (No. 2562) was taken out of the order.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2562) – A BILL FOR AN ORDINANCE TO AMEND THE KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING ARTICLE 23 TO CHAPTER 22, RELATING TO PESTICIDES AND GENETICALLY MODIFIED ORGANISMS: Councilmember Rapozo moved for passage of Proposed Draft Bill (No. 2562) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 17, 2014, and that it thereafter be referred to the Economic Development (Sustainability / Agriculture / Food / Energy) & Intergovernmental Relations Committee, seconded by Councilmember Kagawa.

Council Chair Furfaro: I have a motion by Mr. Rapozo and second by Mr. Kagawa. I will suspend the rules now. This is a period of time where you can give us comment on the first reading here, and because it is first reading, I will limit to you three (3) minutes. If there are questions from the Councilmembers, they will be permitted to asking specific questions as it relates to Proposed Draft Bill (No. 2562). For all of those who want to speak, have you signed up? Do you have the list? Okay. Let us call the first speaker.

Ms. Fountain-Tanigawa: The first speaker is Elijah Frank.

Council Chair Furfaro: Excuse me. Mr. Kagawa, do you have a question?

Councilmember Kagawa: I have a process question. First thing, if anybody is wondering why this item is on the day after the Election, I certainly did not recommend that it come the day after the Election. What happened was on the day of the Judge's decision in August, I requested Staff to draft a bill to repeal the law. Unfortunately, it took all the way until now and I guess the "as soon as possible" date was the day after the Election, and it disturbs me that it is today being that Staff is tired. I think the Councilmembers are also tired. This is not a good time. However, I feel like if we are going to put the public through all of the testimony and relive Bill No. 2491, we could avoid that by just simply taking a vote. If the members feel that they want to kill the bill on first reading, then do so. I think that would be appropriate, instead of dragging it out and still killing it in the end. Thank you, Chair.

Council Chair Furfaro: Okay. The floor will recognize Mr. Bynum, Mr. Rapozo, and then Mr. Hooser.

Councilmember Bynum: We are here. It is on the agenda. The public has a right to speak. It has been difficult to speak the truth to this issue for the public and for myself and others. Our rules allow public testimony on this item and we need to proceed with it.

Council Chair Furfaro: Mr. Rapozo, you have the floor.

Councilmember Rapozo: Thank you, Mr. Chair. I think you all noticed the pause before I made the motion to approve because I had expected someone to make a motion to receive because I can count. I do not think Mr. Kagawa meant that the public would not have a right to testify, but he is just saying that if there is a motion to receive, then that is the direction of the discussion, that in fact, it was on the road to be killed, which I do not have a problem with that at this point. The fact of the matter is that the request was made early on and we have had some delays for several reasons, forcing it to be on today's agenda. I just want my colleagues to know that I did not make the immediate motion because I anticipated a motion to receive. I definitely do want to hear from the community, but I can count and I do not have a real big problem with this being received today. Thank you.

Council Chair Furfaro: Mr. Hooser, you have the floor.

Councilmember Hooser: It has been a long night and early morning for all of us. I certainly intend to support a motion to receive and will make that motion at the appropriate time. I think it is unfortunate that we are here, but we are here. The community is here and I think those in the community that wish to testify or came here to testify—we should here their *mana'o* and we should move forward with the motion to receive, and hopefully put this issue to rest today, rather than have this continue. Thank you.

Council Chair Furfaro: Does anyone else wish to speak at this time? If not, we will go ahead and start with Mr. Hooser. You have the floor.

Councilmember Hooser: Just to clarify, in case the public wants to know, the motion to receive essentially would kill the bill that is on the table before us today and it would not move forward to any other further hearings if the motion to receive is made and achieves four (4) votes. Thank you.

Council Chair Furfaro: JoAnn, do you want to speak?

Councilmember Yukimura: I just want to share what our parliamentarian shared with me that a motion to receive has precedence over a main motion, so we do not even have to act on this pending motion. We could take a motion to receive whenever we want to. I think the main thing is that we want to hear the testimony at this point, and then we have a lot of choices apparently, as to how we get to a motion to receive if we want to get there.

Council Chair Furfaro: Okay. I just want to remind you all that as Chairman, I cannot make the motion, so I will continue with testimony.

Councilmember Hooser moved to receive Proposed Draft Bill (No. 2562) for the record, seconded by Councilmember Bynum.

Council Chair Furfaro: Okay. Mr. Hooser, you have the floor, followed by Mr. Bynum.

Councilmember Hooser: I am still interested in hearing the community's input on this issue, but now the direction of the input would be to support or oppose the motion to receive. The motion to receive would kill this measure. Thank you.

Council Chair Furfaro: Mr. Bynum, you have the floor.

Councilmember Bynum: I will just say that during the course, I really value the public record and what is placed in it. I have had limited opportunities to do that and a lot of opposition to place certain things in the public record, and our rules allow me to speak to this issue today, and I intend to. Our rules allow a certain time for Councilmembers regardless of the motion. Thank you.

Council Chair Furfaro: Would the members allow me a short recess? I just want to consult with the County Attorney on our rules. We are going to take a ten (10) minute recess.

There being no objections, the meeting recessed at 10:01 a.m.

The meeting reconvened at 10:11 a.m., and proceeded as follows:

(Councilmember Kagawa was noted as not present.)

Council Chair Furfaro: We are back from that caption break. It is important for me to make certain that everybody understands procedurally that the Bill has been introduced as a bill. The motion was to approve. The members made a motion that supersedes the motion to approve, which is to receive. If we take that motion, that means your testimony should be focused on the motion of receiving the Bill. "Receive" is... I would choose to use a different verb, but "it concludes the bill." In other words, it does not go on to public hearing and a second reading. That is the motion and that is what we will be taking testimony on. You can be speaking on the pros and cons of receiving the Bill, which concludes the Bill. It does not go on to public hearing. On that note, I will give the floor back to Mr. Hooser. Mr. Hooser, I just want to make sure that the audience understood procedurally what we are doing.

Councilmember Hooser: Thank you very much, Chair. I appreciate you clarifying it, so that people are aware. I know a lot of people stayed up all night thinking about their testimony and what they are going to say, so I wanted to make sure that everyone is aware of the process. I want to encourage the members in the public to speak loudly. Several people have said that they cannot hear. We have turned the mics up as loud as we can, so please speak into the mic. Councilmembers are encouraged to do the same thing. Thank you, Chair.

Council Chair Furfaro: Okay. Now, I would like to go to public testimony. Again, the motion on the table is to receive. Your testimony should be focused on if you want us to receive this Bill and conclude it or if you do not. On that note, may the first speaker please come up?

Ms. Fountain-Tanigawa: The first registered speaker is Elijah Frank, followed by Lori Patch.

ELIJAH FRANK: *Aloha* everybody. My name is Elijah Frank. *Mahalo* everybody. It is good to see you all. It has been quite a year. Now that this

is the motion to receive, I am in favor of that. I would like to see this get done as quickly as possible. I just wanted to give a little perspective of where we seem to be with the issue in the State of the GMO/pesticide issue. Maui's Bill to do a temporary moratorium passed, so obviously, there is a lot of political will to deal with this issue. Hawai'i Island passed a Bill banning GMO crops. Again, a lot of political will. Here on Kaua'i, we passed a "Disclosure Bill," which is a simple right to know what is happening on our island. To me, that is the most important Bill. We have to have accountability and we have to know what is happening on our island. Mandatory disclosure, to me, is the most important thing we can possibly do. There is no voluntary disclosure that can be a substitute for mandatory disclosure. It is not a direct substitution and it is not involved and as conclusive. In fact, I was unable to find a field that is being sprayed next to a school in Puhi within their voluntary disclosure. I was unable to find out that information with the system in place now. Mandatory disclosure, to me, is the most important thing we can do. I think we need to pursue in the legal system what the State says where we stand as an island and our right to know. Do we have the authority as a people— statewide is trying to say, "We want to know. We want to have a say in this." It seems like the corporations are saying, "No, you do not have a right to know. You do not have a say in this." That is what I would like to find out. Do we, as a County, have the right to regulate this sort of thing and protect the health of our people? I am here representing 'Ohana O Kaua'i and the reason we started was to protect 'ohana to mālama 'āina. Any issue that comes up in front of the Council relating to those things of 'ohana and 'āina, I will be here to testify. That is the only reason I am here. As a community, how are we going to address the issues of protecting our environment and leaving a better future for our *keiki*? I really respect everyone's perspective. That is what this is about— finding out what the solutions are. There is no right or wrong, but as a community, I want us to have a right to make those decisions, not an outside entity telling us what we can and cannot do. *Mahalo.*

Council Chair Furfaro: Are there any questions for Elijah?
Mr. Rapozo.

Councilmember Rapozo: Thank you for being here. I guess I am just interested in the statement that you made about the school by Puhi. If you can jot that down like date/time or whatever, I would be curious.

Mr. Frank: I just tried to find out any information, but and I was unable to. I had some help from the County too and they were unable to help.

Councilmember Rapozo: I would like to try... because if there is a problem in that system, it needs to be identified and corrected. I would be interested in getting that information from you. Thank you.

Council Chair Furfaro: Any other questions for Elijah? Elijah, I wanted to say thank you. I want to clarify that the three (3) Bills are very different. Maui's is a moratorium and ours, as you said, is a right to know; a disclosure; a setback bill; and so forth. I just wanted to make sure that I got that clarified, so they know that we are not dealing with the same structure as Maui. Thank you.
Mr. Bynum.

Councilmember Bynum: Thank you for your testimony. I, too, have been able to understand some of the things that have been said. Have you heard

that they are voluntary doing buffer zones? Is there a map of those? Did you look into that at all? Have you heard that?

Mr. Frank: No, I have not heard about it.

Councilmember Bynum: Okay. Thank you.

Council Chair Furfaro: Elijah, thank you very much for being here this morning. Next speaker, please.

Ms. Fountain-Tanigawa: The next speaker is Lori Patch, followed by Erika Schneider.

LORI PATCH: Good morning. My name is Lori Patch. I am from Kilauea and I am here to represent myself. I am a cancer survivor and I also want to support your motion to kill the bill. Being a cancer survivor and having watched the videos and coming to the testimonies and hearings, I have heard countless hours of people who are sick and people who have family members that have died of cancer that live on the west side. In March, I met a family. They were holding a beautiful, huge picture of their sister, and I commented on how beautiful she was. They told me that she died from cancer and that ever since the inception of the GMO testing pesticide/herbicide fields, they have lost thirty-five (35) members to cancer. That hit me personally being a survivor because it is a very, very tough disease to beat. I am very grateful and thankful that I am here today to speak on behalf of the people who I believe are truly suffering. How do we know that they are not being experimented on along with the test fields? They are so close. How do we know? We need disclosure. It just behooves me that we are here today, but I am grateful that I can be heard. I just want to thank everybody for listening because that is what brought me here, which was hearing all of the people, meeting the people, spending the night out there, and meeting families and women, whose breasts were removed because they lived by a field that was receiving drift; having to wash their pillowcases from all of the dust from the fields. That is all I have to say. Thank you so much. *Aloha.*

Council Chair Furfaro: May I please have the next speaker? Madame Clerk, I am going to step out to return a phone call. I will turn the floor over to the Vice Chair.

(Council Chair Furfaro was noted as excused.)

(Council Chair Furfaro, the presiding officer, relinquished chairmanship to Council Vice Chair Chock.)

Ms. Fountain-Tanigawa: The next speaker is Erika Schneider, followed by Joanna Wheeler.

Councilmember Chock: Good morning, Erika.

ERIKA SCHNEIDER: *Aloha.* I am in support of receiving...

Councilmember Chock: Can you please introduce yourself first?

Ms. Schneider: My name is Erika Schneider.

Councilmember Chock: Thank you.

Ms. Schneider: I am in support of receiving this Bill and killing this Bill today because I oppose repealing Ordinance No. 960. The health and well-being of our families and children should be our first priority in everything that we do. The chemical companies have pushed back with a vengeance over Ordinance No. 960. They have spent huge amounts of money— fifteen million dollars (\$15,000,000) KITV said, in this Election, to influence our election outcomes. Why for such simple things that have been requested? All we were asking for with Ordinance No. 960 was, “What are they spraying?” Buffer zones are commonsense. Disclosure of all pesticides and amounts used is commonsense. The Good Neighbor Program does not provide that. They are not giving us all the information that we need, obviously. It is not a “Good Neighbor Program.” They are not “good neighbors.” Simply reading the labels on these pesticides tells you how toxic they are and that they should not be sprayed around homes, hospitals, and waterways. Buffer zones are commonsense. What was the big deal with Ordinance No. 960? Why have these companies fought so hard to keep us in the dark? What are they hiding? We have a serious situation on Kaua’i right now. We have all acknowledged that there are very disturbing issues that need to be investigated regarding the health of our communities. This Ordinance is a positive step towards discovering the truth about what is being sprayed and its impacted on health and environment. I have not been present since last fall, as much as I would like, in Council proceedings. The reason being is because after Bill No. 2491/Ordinance No. 960 was passed my eleven (11) year old son started having seizures. There is no history of epilepsy in our family. There is no identifiable reason why he should have started having seizures. He also has nosebleeds accompanying these seizures. He wakes up with blood on his pillow. He can sit home from school because of seizures and nosebleeds. My doctor’s best explanation after seeing many specialists is that he must have had a head injury, which he did not or he may have been exposed to environmental toxins or neurotoxins because there is no history of this in our family. It has changed our entire family’s life. He had to drop out of the school that he loved, Kanuikapono, last winter. I had to homeschool him for the remainder of the school year, and then he had to leave the school that he loved, that he has grown up in and moved to Kapa’a Middle School because they are more capable of dealing with kids with disabilities.

Councilmember Chock: That was your three (3) minutes, so if you could wrap it up as well.

Ms. Schneider: Every single day, I wonder if his seizures are being caused because he has grown up on Kaua’i and swam in the Wailua River all the time when we lived near the river. I wonder if he has been exposed to something here or because when I was pregnant, I lived thirty (30) feet from the GMO cornfields in South Dakota. There are too many mothers with these questions on Kaua’i and we need to have answers. Ordinance No. 960 provides the first step. Thank you.

Councilmember Chock: Thank you. Next speaker, please.

Ms. Fountain-Tanigawa: The next speaker is Joanna Wheeler, followed by Glenn Mickens.

JOANNA WHEELER: *Aloha.* I am Joanna Wheeler from Kapa’a. First of all, congratulations to those of you who have been reelected. Thank you because I know that you care about the *‘āina* and all of the people. It is a great responsibility. It is in your hands. Ross Kagawa is not here and I wanted to say

that for the record because he introduced this Bill. Mr. Rapozo—I talked to you—I cannot say more about Bill No. 2491. You heard it all. We brought scientists (inaudible). If we brought scientists, the chemical companies do character assassination. This is not about science; this is about commonsense. Because I am a mother, I decided to stay with my daughter now and (inaudible) am a mother supposedly, I do not have the sense to know this. I cannot say anything about poison being next to my home or being next to the hospital where I gave birth to her. It does not make any sense. Please listen to us. Do not do their dirty job. I am sure they have brought over their educators. They brought them over to us. Last year, they had so many people to try to convince of the goodness of these poisons. They came for months to tell us that if we would stop campaigning for Bill No. 2491, they would just stay on the west side, like we were supposed to say, “Okay, yes, just hurt the people on the west side because we want to be fine in Kapa’a or in Wailua.” That is not right. Please kill this Bill and just let it be. Do not do their job. I know they tried to convince you, but they do not care about the people. These are international polluters all over the world that create destruction and havoc. As told in my other testimonies, Dow still has barrels of Agent Orange that they did not clean up. This is paradise and they have given the kids of paradise to these companies. They have tested Agent Orange again in open air conditions. Agent Orange—my uncle fought in Vietnam and he died in a horrible, horrible way. When he died, he told me about Agent Orange. I was so scared about it. When I learned last year because of public testimony with this (inaudible) that they are testing Agent Orange again in open fields conditions, I could not believe it. How was this possible? Please do the right thing. Please get rid of this Bill. We have free, *pro bono* defense now from state of the art attorneys. They are going to take care of us and it is not going to cost us more money. Let us do the right thing. *Mahalo.*

Councilmember Chock: Thank you, Joanna.

Ms. Fountain-Tanigawa: The next speaker is Glenn Mickens, followed by Wendell Kabutan.

GLENN MICKENS: For the record, Glenn Mickens. Thank you, Mason. Thank you, B.C. You have a copy of my testimony. Let me take a different view of this issue. I am not a “red shirt” or a “blue shirt,” but only looking for a commonsense approach to it. I highly support passage of Proposed Draft Bill (No. 2562) and completely agree with Mel and Ross, who said that by repealing Ordinance No. 960, we do not need to spend any more tax dollars on the appeal. Basically, they have no confidence that the appeal is going to be any different than the first riling. We have spent/wasted about one hundred sixty-seven thousand dollars (\$167,000) so far in litigation and as this case drags on for possibly years, the costs will be staggering. Dow, Syngenta, and Monsanto have limitless legal funds to pursue this issue in our County and a negative cash flow now certainly cannot afford to dig us in a deeper hole. United States (US) Magistrate Judge Barry Kurren has already released his decision to validate Ordinance No. 960. It is unlikely that anything that this County can do will cause him to overturn it; just more of a waste of our target money. Section 4.02(b) of our Charter says that, “Each ordinance shall be on one subjected.” Ordinance No. 960 is clearly on two (2) discreet subjects: pesticides and GMOs. There is already ample regulation on the safety and use of these two (2) subjects by Federal and State governments. The use of these restricted chemicals is clearly shown on their containers on how to use, what amounts, and the safety measures needed while applying. If anyone, private citizen or company, can be shown using these companies in a noncompliance manner according to the instructions, then they are breaking the law and should be

fined. If spray is going on and winds stronger than that specified on the container, then again, they are violating the law. That law and usage is already on the books. The law did not need to be changed. The problem does not lie with the manufacturer of the chemical, but rather the enforcement of use and who is responsible for the enforcement? The Feds? The State? The local government? I cannot answer that question, but for me, that is where the problem is and where we should be investigating. If positive proof can be shown that irresponsible use of these chemicals is going on, then it is the responsibility of the enforcement agency to prevent or stop misuse. Regarding GMOs— Robert Wager was training in biochemistry/molecular biology as an independent scientist who receives no money or perks from the chemical or seed companies. He has been involved with GMOs and public education for thirteen (13) years. In July, Mr. Wager wrote a fine guest commentary in The Garden Island about GMOs and let me quote a few of them. They were very interesting comments for those of you who did not read them. The World Health Organization (WHO) states “Genetically Modified (GM) foods currently available in the international market have passed risk assessments and are not likely to present risk of human health. In addition, no effects on human health have been shown as a result of the consumption of such foods by the general population (inaudible) where they have been approved. The GM product that they are currently on the international market of all passed risk assessments conducted by national authorities. These assessments are thorough and have not indicated any risk to human health.”

Councilmember Chock: That was your three (3) minutes, so please wrap it up.

Mr. Mickens: Well, can I have the six (6) or shall I come back after?

Councilmember Chock: Why do you not come back? We have a lot of people who still want to testify. Let us do that.

Mr. Mickens: Yes, because I have a little trouble wrapping it up.

Councilmember Chock: Okay, let us come back to you later.

Mr. Mickens: Okay. I will do that.

Councilmember Chock: Thank you.

Mr. Mickens: Thank you very much, Mason.

Councilmember Chock: You are welcome.

Ms. Fountain-Tanigawa: The next speaker is Wendell Kabutan, followed by Joe Rosa.

WENDELL KABUTAN: *Aloha.* My name is Wendell Kabutan from Waimea. I am in support of receiving the Bill. I just want to share my own personal testimony. My wife is a survivor of breast cancer. For myself, I have been to the emergency room two (2) times where I almost died because I could not breathe. I have had a cough since February 2014 until today. For two (2) months during the summer, I was up in North Carolina and Colorado and my cough disappeared. I have taken antibiotics, a whole bunch of asthma medication, and all

kinds of natural remedies to try to get rid of the cough. I have been given an allergy test and nothing diagnoses the problem of my cough, except when I leave, I stop coughing. When I go back to Waimea, I am coughing, hacking, with a deep cough in my lungs. I am concerned about maybe getting cancer because of this. Now I know it is only called "anecdotal information," but my neighbors across the street has been coughing for months. The husband has cancer. My neighbors have cancer. Friends and neighbors have died; too many for it to be blamed on anything else, other than the possibility of pesticides. I requested pesticide tests, but two (2) doctors at the Kaua'i Veterans Memorial Hospital (KVMH) facility and I was told that there was no pesticide test; although there are two (2) facilities on the mainland that do tests for a whole panel of pesticides, but I cannot get a pesticide test and neither can anybody else in Waimea. I think that these issues have to be addressed, sometime in the future with the new Council with the State and Federal government because there is overwhelming medical research and medical evidence gathered from foreign countries and in the United States that medical professionals are warning us of the detrimental effects of pesticides on our health. This should be a major concern and to actually try to remove the very minimal protection of...

Councilmember Chock: Can you summarize? That was your three (3) minutes.

Mr. Kabutan: Anyway, I just think it is more serious for the people living on the west side than it is for maybe the rest of the island because we are dying and our kids are impacted. If somebody would bother to study what is actually happening, get the evidence from the hospital, which is there. Eyes might be opened up and the people might be awakened to the devastating effects of these RUP chemicals. *Mahalo*.

Ms. Fountain-Tanigawa: The next speaker is Joe Rosa, followed by Klayton Kubo.

JOE ROSA: Good morning, Members of the Council. For the record, Joe Rosa. Again, I am here to testify on this pesticide and herbicide issue. I have a backyard where I farm a little. I am a plant enthusiast in flowers and *bonsai*. I had to use pesticides because I had no choice. Either I get some kind of pesticide and get rid of the infestation of the insects and bugs— I use it. Basically, when I started into my art of *bonsai* and doing little backyard farming, every time I go to the store to pick up pesticides or herbicides, I had to fill out a form at the dealership there. In those instructions, it says that the distributor of the so-called chemical you intend to use... in the end, it says that they will not be responsible for any abuse of not following instructions. It was clearly stated on every label. If you notice, it says, "We will not be responsible for anything that is not followed by the directions that was posted on those labels." Whose fault is it? The homeowners are going to say, "I am going to double dose to get rid of it one time and I do not have to spray two times in a month." Whose fault is that? That is the homeowners or the people who use those chemicals. How can you blame companies that do things to prevent a spread of infestation of insects or bugs like they do with the fire ants and whatever? Also, I have seen recalls and on the recalls, I do not know why, but they talk about GMOs and all of that. I have never heard any recalls being made because of GMO vegetables or whatever, but I have heard recalls on organic farm vegetables like lettuce, strawberries, or mixed vegetables. Are those chemicals? They are supposed to be organic and safe, but there were how many recalls on things as such. Think about it all of you. They have been recalls for organic farming products, but I have not heard anything done for GMOs, so what is the difference? Which is safe, GMO or organic farming?

Councilmember Chock: That was your three (3) minutes.

Mr. Rosa: Those are the things. Another thing is that I was in the market last month and there were two (2) Caucasian women shopping. What do I see? Canola oil. They also had some fresh corn and the lady said, "Let us buy some corn." The other said, "No, that is GMO." Then she said, "Let us get some tofu." But tofu is made from soybeans and there is a good chance that soybeans are GMO also.

Councilmember Chock: Thank you, Mr. Rosa.

Mr. Rosa: Those are the things. Like I said, think about it. There are a lot of things out there that are GMO that we eat. I have been eating rice for thirty (30) years and I am eighty-two (82) and still around. Do not blame GMOs. I thank you.

Councilmember Chock: Thank goodness you are still here. *Mahalo*.

Ms. Fountain-Tanigawa: The next speaker is Klayton Kubo, followed by Jerry Pacheco.

KLAYTON KUBO: Klayton Kubo, Waimea, Kaua'i. I think to myself, "Why am I here again?" I guess it is all about the money. Where does health and well-being come into this picture? The State— at least they are trying to step up and do something. They are trying, but they had, in my calculation, over fourteen (14) years to do something. At least they are trying, I guess. The whole point of this is about money. Wow. If money makes the things go around and like I am pretty sure I said it in one testimony that it does not matter if you have one hundred fifty thousand dollars (\$150,000) or two hundred fifty thousand dollars (\$250,000) a year job, if you get sick, you cannot go to work. If you die, they are going to give the job to someone else. That is all it boils down to. I would like to congratulate you, Mel, for getting the top vote. Right on. I still respect you, no matter what, as I try and respect everyone who is a politician. But we are here because of money again. Health and well-being is supposed to be the first and there is no doubt in my mind that if we do not have health, we are not even going to be here. What I need to worry about is, again, if my youngest son is going to be able to give my any grandkids. I do not think that is fair, being impacted from the first day that he got home from Kapi'olani Medical Center. I do not think that is fair. I do not think my son actually said that he wanted to be impacted or exposed to restricted use chemicals, pesticides, and insecticides. This is real for my family and me. That thing is coming into my house in the form of dust, vapor, drift, fumes, and whatever people come up with the conjugation or what kind of words. This is real. Just last week Thursday, they were spraying and the location that I was, if I had that wind gage, that thing would probably be blowing in that wind gage probably twenty (20) or maybe even more.

Councilmember Chock: Three (3) minutes.

Mr. Kubo: I have pictures to prove that they were spraying and from what I understand is that it can be organic-based. It does not matter. Too much of that is still toxic. I hear "organic this" and "organic that," but I am not a scientific kind of guy, but I guess I talk to the right people who at least give me the right information. Anything organic— watch out. I am done. Any questions, Mel?

Councilmember Rapozo: I have a question only because you asked and you were looking at me the entire time. Maybe only a couple of times you looked away, so I appreciate that.

Mr. Kubo: Okay.

Councilmember Rapozo: You talk about money, but I am trying to understand what point you are trying to make about the money.

Mr. Kubo: I guess it is the two hundred twenty thousand dollar (\$220,000) total, right?

Councilmember Rapozo: Regarding?

Mr. Kubo: The lawyers.

Councilmember Rapozo: Right. Let me ask you this, and we had this discussion before, would you rather not see that money be applied to inspectors on the ground?

Mr. Kubo: Yes, but that is an additional twelve thousand dollars (\$12,000) or so, right? Then for the rest, they are going to do it for the rest of the way for free, right? That is what I understand.

Councilmember Rapozo: Nothing is free, Klayton. The bottom line is— Mr. Chair, I am going to ask you to ask the audience to keep their chuckles to themselves. That is the problem that we have over here because we cannot have an open dialogue that is serious.

Mr. Kubo: Mel, that is why I am pretty sure I tried calling you up and I also left a voicemail. Normally, I do not leave voicemails.

Councilmember Rapozo: Well, I am not going to get into the philosophical disagreements, but I guess what I am trying to say is that the testimony today, and I am sure we will hear more of it, but it is about repealing the Bill and taking away Ordinance No. 960— Ordinance No. 960 is not there right now. We do not have any protections right now. I am asking you, would you not rather see that money being used for inspectors on the ground doing regular inspections and monitoring what is going on by your house? Let us be objective. I am asking you an objective question. Let us put this stuff on the side, this “us against them.” Just answer the question. Would you not rather see that money used for people on the ground that can monitor and regulate? I heard some things today about not being able to find certain fields on the reporting system and that concerns me.

Mr. Kubo: Definitely.

Councilmember Rapozo: I hear testimony today about specific incidents, including yours about twenty (20) miles an hour wind, and I am not sure if you reported that, and if you did, to whom?

Mr. Kubo: I reported it directly to Scott Enright.

Councilmember Rapozo: What was the result?

Mr. Kubo: As for last week Thursday, they were spraying organic Surround...

Councilmember Rapozo: Let me make this point, too— organic or non-organic pesticides are the same. They are all dangerous.

Mr. Kubo: They all kill.

Councilmember Rapozo: They all have labels. These organic pesticides are no different. I talked to a farmer last night. Organic pesticides are no different than non-organic. Let us make that point perfectly clear. It is not so much...

Mr. Kubo: I pretty sure I did that.

Councilmember Rapozo: Yes, you did, but I want the public to understand that, that organic pesticides cause the same problems as non-organic. You see, Mr. Chair.

Councilmember Chock: To the audience, you have to keep it down.

Councilmember Rapozo: Believe what you want to. That is the truth. Look at the label on an organic pesticide. Klayton, I know you know because we have discussed this.

Councilmember Chock: The question is here. Councilmember Rapozo, if you can ask the question.

Councilmember Rapozo: We cannot even have an open dialogue. There is so much anger that we cannot even have an open dialogue and that is a shame. There are people still wearing red shirts here.

Mr. Kubo: Mel, it is about... I guess the question should be, "Where is the respect?" It goes both ways.

Councilmember Rapozo: I agree.

Mr. Kubo: It does not only go one way because this is the County of Kaua'i, State of Hawai'i, and the Nation of the United States of America.

Councilmember Rapozo: I go back to my question of would you rather not have more inspectors on the ground?

Mr. Kubo: From what I was told already, Kaua'i is going to have one (1) more.

Councilmember Rapozo: I am not talking about one (1) more. We need more than one (1) more.

Mr. Kubo: Oh well.

Councilmember Rapozo: I am done.

Councilmember Chock: Thank you. Any other questions before he leaves? If not, next speaker.

Mr. Kubo: *Mahalo.*

Ms. Fountain-Tanigawa: The next speaker is Jerry Pacheco, followed by Sarah Smith.

JERRY PACHECO: My name is Jerry Pacheco. I called Mel Rapozo, Ross Kagawa, Darryl Perry, the guy with the Hawaiian name— KipuKai? I also called Arthur Brun and Arryl Kaneshiro to ask them where they stood on the chemicals and GMOs. I think I left three (3) messages on your phone and you never called me back. Ross Kagawa called me back and left a message on my recording saying, "It is not up to us. It is up to the State." Darryl Perry did call me back. We had a long conversation and he said that there are sixteen hundred (1,600) and sixteen hundred (1,600) against and for GMOs and pesticides, so I asked him, "Where do you stand?" He said, "I do not know yet." I said, "Well, should we not know before we vote?" KipuKai never called me back. Arthur Brun did call me back and we talked for a little bit. He did not tell me that he worked for one of the companies. I asked him what he did for a living and he did not tell me that. Arryl Kaneshiro left me a message to call him back on his cell phone, so I did and left a message on his cellphone saying, "I am calling you to find out where you stand," and he never called me back. Last night, I heard Dustin Barca on the phone saying that he is afraid for the future of Kaua'i. I felt that and I was very sad last night when some of you guys were back on the Council because I do not believe in you guys anymore. For you not to call me back after three (3) phone calls— that is all I asked of you, so I would know who to vote for yesterday. I am very confused. The commercials drove me crazy. I did not know if the GMO commercials were for or against it. I had a lot of people having the same problem— smart people. We could not figure it out. I am just sorry that some of the people who I wanted on the Council are not going to be up here in a couple of months. Thank you for your time. I hope I did not make you any more confused.

Councilmember Chock: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Sarah Smith, followed by Felicia Cowden.

Councilmember Chock: Hold on, Sarah. I just wanted to remind everyone what we are providing testimony on today at this point. The item is now a motion to receive, so we will be voting on receiving this or not. If we could keep the testimony more direct, it would be more helpful for us to make any decision necessary. Thank you.

SARAH SMITH: Good morning, my name is Sarah Smith. I just want to say that I support the receipt of Proposed Draft Bill (No. 2562). Can you hear me? Just to reinforce why I believe that; if my neighbor came up to me and said, "Wow, you are spraying something in your yard and it is disturbing us," then I would just be in shock and say, "Oh, my gosh, I am very sorry. What is it? Let us get to the bottom of this. I am not trying to disturb your life or your well-being," and I would do something. That is not what is happening with us and the biotech companies here. We are saying, "You are spraying things that are bothering us," and they just do not seem to care. That is not okay. There are whole towns strewn around the United States that have brought suits against some of

these same companies. You have ruined our towns. People are dying and sick. Lawsuits were brought against some of these same companies that end up having to pay millions and millions of dollars to these towns that are absolutely ruined. We have a chance to avoid that. Let us not just keep going forward down this road, and then at a later date, have to file such a lawsuit after so many people have suffered and so many people have died. We have a chance to nip it in the butt here and I think we need to move forward with Ordinance No. 960. We have gotten so far. How often is it that you walk outside the front door of this building and see hundreds of people there that feel so strongly about something? How often is it that you see four thousand (4,000) people going down Rice Street because it is important to us? This is not an everyday occurrence. Please listen to that and please respect us. Some of us have been studying this a long time and there is a lot of evidence that this is dangerous. That is all I have to say. Thank you.

Councilmember Chock: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Felicia Cowden, followed by Katie Johnson.

FELICIA COWDEN: I am Felicia Cowden and I support the receipt of Proposed Draft Bill (No 2562), if, in fact, that means that this is stopped. I would hope that it does not come back up again to repeal Ordinance No. 960. This is about having the respect for the people, the thousands of people, who this means so much to, and maybe it is an accident that this is the day after the Election, but it is a profound slap in the face. It is the wrong step when we are quibbling about an additional twelve thousand dollars (\$12,000) when we have how many Executive Sessions for lawsuits on internal problems, and I do not hear this kind of “resolve to stop that type of expense.” So for twelve thousand dollars (\$12,000) or maybe we are really looking at thirty-two thousand dollars (\$32,000) or something because we have not spent that amount; we take it to the Court. I applaud that Maui succeeded with their citizen initiative in the face of all of this finance to manipulate this Election. When we see what they succeeded with there— you know what? Kaua‘i made a big difference on that. Kaua‘i’s citizen movement made a big difference for Hawai‘i Island and Maui and this is why we got the “Good Neighborhood Policy.” It is because of that, not because they decided to do the right thing. So mandatory versus voluntary is very big. Ordinance No. 960 is a very, very small step towards doing the right thing. It is a disappointingly weak piece. Yes, the State really should be the one funding looking after what is happening in the Department of Agriculture. We were all here when we heard from them, the Department and Health and Department of Agriculture, when they did the water snap shot— nobody has even looked at it, ever. So when the scientists from the other side are saying, “You cannot prove it.” Yes, we cannot prove it because nobody is looking. We need to be looking. In truth, the County needs to be working with the State and those companies to do the right thing, but to have a new Council be saying, “Hey, guess what? We are going undermine the respect that was hard-won by the people; hard-won.” That is what that is saying, “Do not do that over twelve thousand dollars (\$12,000).” Do not insult us over twelve thousand dollars (\$12,000) when there is so much mismanagement of internal behavior that sits in that room in Executive Session. We need this all aboveboard. Please kill this effort to avoid holding these companies accountable at a mandatory level. Thank you.

Councilmember Rapozo: Mr. Chair, I think there is a disturbance outside. Can we get a short recess?

Councilmember Chock: Yes, we will have a short recess. Thank you, Felicia.

There being no objections, the meeting recessed at 10:57 a.m.

The meeting reconvened at 11:08 a.m., and proceeded as follows:

Councilmember Chock: What we are having right now is an influx of people coming in who want to testify, which they have a right to do so, so what I would like to ask is because as you can see, we have these extra cameras and is on a backup system today and that does not allow us to set us up for downstairs as we have in the past where people can actually see the meeting and witness what is happening in here. Because of that, what I would like to do is ask if you folks who have already testified, if you can make room and seats for those new people coming in. Mr. Topenio, who is here monitoring the door, will allow new people to come in. So if we could have some consideration for those people, so that they get a chance to speak. I think we have eighteen (18) to twenty (20) people who are scheduled to speak thus far. Again, let me just remind you that what this is about at this point is about a receipt. I think that you have heard from all Councilmembers early on in the direction that this is moving. I want you to take that into consideration. I also would like to say that there are other things on the agenda that people are here for such as the Additional Dwelling Unit (ADU). If you are here for that, we have decided that we want to take that item closer to 3:00 p.m. today. If you are here for that, it can allow you folks to come back at a more appropriate time. Thank you. It looks like we have some open seats now, so that is good. With that, we will go back to our testimony.

Ms. Fountain-Tanigawa: The next speaker is Katie Johnson, followed by Jimmy Trujillo.

KATIE JOHNSON: *Aloha.* I am Katie Johnson. I am a mental health provider here to advocate for the children and families of Kaua'i, particularly those who are not able to be here today or do not feel able to speak out. I would like to state for the record that Councilmember Kagawa is not present and has missed all of the public testimony this morning. Many of us have taken time out of our busy days to be here for a Bill he co-introduced. We talk about respect, and I find this very lacking. I asked the Council Staff about half an hour ago to please find him because I want him to hear my testimony. He is not here. When I thought of what I wanted to share with you today, I could not imagine what was new and what I could possibly share. What I decided to do was to quickly get together a sampling of the research that you all heard, but I thought that we really need to be reminded of this research to support all of the anecdotal evidence that we hear, that I have heard sometimes dismissed anecdotal evidence, so that is why I wanted to bring your attention back to the research. Using data from the North American Association of Central Cancer Registries, US researchers found that children who live in areas where they are exposed to pesticide drift experience a statistically significant increase in the risk of many types of childhood cancers. A study published in the Journal of Occupational and Environmental Medicine showed that the risk of having a child with neural tube defects, which are birth defects in the brain and spinal cord, is directly linked to pesticide exposure. Multiple studies, including one done by researchers for the University of Washington School of Medicine conclude that maternal exposure to atrazine is significantly associated with (inaudible) gastritis—I do not know if I am pronouncing that right, but you know what I am talking about—particularly in spraying conceptions. Another study found that maternal exposure to atrazine upped the risk of nine (9) different

birth defects in babies. Virginia (Inaudible) at Columbia University found that when children are exposed to chlorpyrifos, found in Waimea Canyon Middle School, prenatally the structure of their brain becomes permanently altered, diminishing their memory, language ability, and their emotional and impulse control. The National Academy of Sciences has published data stating that one-third (1/3) of all neural behavioral disorders such as Autism and Attention Deficit Hyperactivity Disorder (ADHD) are caused by exposure to pesticides and other chemicals. Studies out of California, New York, and Minnesota all concur that when mothers are exposed to pesticides during pregnancy, the risk of Autism increases sharply. Another study out of California Central Valley found that children whose mother lived within five hundred (500) feet of the fields being sprayed were six (6) times more likely to have a child in the Autism spectrum. I do not understand how we could ignore the stories of the people of Kaua'i. I do not understand that at all. I have heard it being criticized as "anecdotal evidence," but this is the research.

Ms. Fountain-Tanigawa: Three (3) minutes.

Ms. Johnson: I would like to say one more thing if allowed. I have heard before a Councilmember lookout and say that he did not recognize any of us, that we were not the people he grew up with or played football with, but I would like to say that I did not choose where I was born or what color I was born, but I got my graduate degree, came here, have been here for a decade, and I serve the children and families of this island. I would never presume to tell you what is *pono*, but Hawai'i is not the only place that talks about *pono*. I grew up knowing about my moral compass; it is when you make your decisions based on what is morally right.

Councilmember Chock: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Jimmy Trujillo, followed Harmony Harwell.

Councilmember Chock: Is Jimmy here? He left. May we have the next speakers' names read again, please?

Ms. Fountain-Tanigawa: Harmony Harwell, followed by Nomi Carmona.

HARMONY HARWELL: *Aloha*. I think we have all forgotten that word a little bit. My name is Harmony Harwell and I am for the support of getting these people off of our island and creating new jobs that are sustainable agriculture and making things that people eat, instead of die from. I was diagnosed with cancer this year. I have Stage 4 Lymphoma. It is a direct link to glyphosate. It has been proven many, many times. I was a Nā Pali Coast guide for four (4) years. I was saturated in ocean water all summer long. Why are you supporting unsustainable agriculture? Why are we not growing taro, doing tours, and things that are not polluting our environment? Why are we not looking at other options? I am very nervous. Kaua'i is one of the last places on Earth with clean water. If we keep allowing these people to spray this stuff, our soil and watershed is destroyed forever. There is no undoing of glyphosate. You cannot undo it. That alone should be enough to say, "Get off our island." We will come up with ways to solve this problem and give these people jobs. It is about community. It is not about being a "White Hawaiian" or whatever. I have been here for maybe fifteen (15) years and I may have to leave if these people come on this side of the Wailua River. I may have to move. My body cannot handle anymore poison. This is my children's home.

Their father is local. They fish and dive. It is my home too. White or brown— it does not matter. This is about respecting ourselves and our resources. As to the rest of the world, California is drying up. The world changes. There is global warming. Things are going to change so much and these people are going to have half of our island poisoned. What are we going to have to fall back on? Are we going to be able to dive on our reefs and sustain ourselves? Are you going to be able to surf? Tourists do not want to come to a “cancer cluster” island. What about when all of the hotels close because people stop coming? I support this Bill— I mean I do not know what else to say. Listen to the people. You are here because the people voted for you. I am not sure about the secret ties to money and all of the conspiracy theories, but at night when you lay your head on your pillow, I think that you know what God says to do. Examine yourself. That is all I have to say.

Councilmember Chock: Hold on. You have a question from Councilmember Yukimura.

Councilmember Yukimura: Hi. I am very sorry about your cancer. The issue of glyphosate— it is not a regulated pesticide, if I am correct.

Ms. Harwell: No, it is not.

Councilmember Yukimura: So it is being sold on the market for homeowners to use, right?

Ms. Harwell: Yes it is.

Councilmember Yukimura: Ordinance No. 960 is not going to stop glyphosate on this island.

Ms. Harwell: No, but it is going to stop the concentration of things in the water where people are swimming, surfing, snorkeling, living, and eating off of the reef.

Councilmember Yukimura: It is?

Ms. Harwell: Does it not wash into the watershed?

Councilmember Yukimura: Disclosure is not going to stop...

Ms. Harwell: They are spraying Roundup. Roundup is glyphosate.

Councilmember Yukimura: Right, I understand. Okay. Thank you.

Ms. Harwell: They are testing other things that we do not know about because they do not have to tell us about it.

Councilmember Yukimura: I just talked about glyphosate since you mentioned it. Thank you very much.

Councilmember Chock: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Nomi Carmona, followed by Dr. Lyle Robinson.

Councilmember Hooser: I just have a point of personal privilege, if I may?

Councilmember Chock: Sure.

Councilmember Hooser: As we go through, sometimes we will hear things and rather than wait two (2) hours, for the record, I just want to state that glyphosate would be required to be disclosed under Ordinance No. 960 by those who are using high levels of restricted use pesticides. So that is one that I want to make for the record that glyphosate would be required to be disclosed. Number two, glyphosate tellingly is not being disclosed by the Good Neighbor Policy and these companies who are being impacted or would be impacted by Ordinance No. 960 are using massive amounts of glyphosate, but they are refusing to disclose it. I just wanted to put that on the record. Thank you.

Councilmember Chock: Thank you for the clarification. Going back to our next testifier, Nomi.

NOMI CARMONA: *Aloha.* My name is Nomi Carmona. I am a lobbyist for Babes Against Biotech and member of many community organizations that are working on this issue across the State. While I understand the need to budget effectively, twelve thousand dollars (\$12,000) seems a little bit ridiculous to consider an appeal when we have already come this far. Furthermore, I support and we support the motion to receive Proposed Draft Bill (No. 2562) and kill the repeal. It seems a little bit cruel to your constituents to even consider a repeal of this law. It seems disrespectful to the democratic/republic process. How do you expect to realistically serve your constituents when they fight so hard for something, and you consider just repealing it? How do you expect people to come out and vote and actually believe in this process, get involved, and have this conversation? We have had this conversation for months, and months, and months. It is not like we have not been through this before. I would really encourage you to serve your constituents and their will in pushing for this kind of a bill. Furthermore, we have to think about the fact that the Birth Defect Registry has not been updated since 2005. All these kinds of feelings of the State—the onus lies on the County and that is why we fought so hard for home rule, so that you are able to do these things. It does not matter if you put the twelve thousand dollars (\$12,000) towards an inspector. That is not going to cover an inspector position and what are the inspectors going to inspect if there is no disclosure? Really? It is a real fact that there is no disclosure. The Good Neighbor Program is not mandatory. They are not mandated to tell us anything. We do not even know if they are telling us the truth and we are just supposed to be satisfied with that and nothing? What about our tourism economy? What about our property values? What our natural resources? These are the reasons that the community came together at this level to pass this kind of legislation. I think a repeal is a very poor move. I think that if you cannot stand up or if you are not willing to stand up for your constituents when it comes to disclosure of toxic pesticides being sprayed in their environments, limiting the exposure to their children, and the impact studies, then what are you willing to stand up for? Why did you come into office and fight so hard to get reelected? Those of you that were, congratulations. We lost some of the people who have been fighting for us. If you are not willing to take the stand when it comes to these kinds of issues and the world's largest chemical companies spraying your community—they just spent eight million dollars (\$8,000,000) on Maui fighting health and environmental impact studies, other chemical companies. These companies are responsible for numerous superfund sites and settlements for poisoning entire communities. At what point do you just disregard their entire history and say,

“That is fine. We are just going to quit now. We put into two hundred thousand dollars (\$200,000), but we give up at this point.” The EPA does not test any of these pesticides prior to registration; not even a combination, not even testing. They rely entirely on these chemical companies who also create the regulatory system for the EPA, which is admitted on their website. At the end, they say, “You have more questions? Ask the chemical companies.” I brought you, Councilmember Rapozo and Councilmember Kagawa, some clinical trials buttons from Biotechnology Industry Organization when we did a protest out there and I brought you some handouts and information from Maui. I hope you realize that you also are clinical trials, as long as this is going on.

Councilmember Chock: You have a question as well from Councilmember Rapozo.

Councilmember Rapozo: I have to ask you this question. What makes you think that I did not listen to my constituents?

Ms. Carmona: Because you are here introducing a repeal of this Bill that matters so much to them. You might be listening to a portion of your constituents that do not want this Bill, but what about the thousands of people who put democratic action forward to pass this? What about the entire process? Are you just going to disregard the entire democratic/republic process of your County?

Councilmember Rapozo: Did you see the Election results last night?

Ms. Carmona: Yes, I did. Congratulations.

Councilmember Rapozo: I listen to my constituents. That is my point. I am not saying that to be arrogant, but I am just telling you that there are constituents...

Ms. Carmona: You are not listening to these ones.

Councilmember Rapozo: I understand, but there are constituents much more beyond. I have to say that the issue here is not the substance and I think I have said that enough times. It is not the substance of the Bill; it was the legality. I will have some comments at the end, but I do listen to my constituents. I think that is clear and I think that is why I am here.

Ms. Carmona: I think that is a little arguable to some of your constituents and while I support you doing the best that you can, we still have another chance. We are still in appeal. People who are going to decide this next level are not the same person who decided—it is not Judge Kurren. Judge Kurren’s decision does not have the kind of weight on the appeal that I think you think it might possibly have, so I think we need to play this out, let it finish, and assess what is going on here. Is this even sufficient? No, it started as a moratorium. I think that we have the power now to overcome eight million dollars (\$8,000,000) on Maui and this is a much smaller constituency. What are we going to have to do to protect our families if you guys do not? I trust that you will, so I trust that you will receive Proposed Draft Bill (No. 2562) and kill this repeal. I think it is very inappropriate and if you want to fix things that you see as wrong, then I think you should introduce something new altogether, rather than destroy this Bill that these people have fought so hard for; these other thousands of your constituents.

Councilmember Chock: Okay. Thank you.

Ms. Carmona: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Dr. Lyle Robinson, followed by Brandi Titus.

DR. LYLE ROBINSON: Good morning, Councilmembers. Thank you for all continuing to be of service to our community. Councilmember Rapozo, I want to particularly thank you for sitting here through this because I know you co-introduced the Proposed Draft Bill (No. 2562), and that most of us who are here are in opposition to that Bill, so thank you for remaining here and listening to us as you said you would. I have a couple of points that I want to make. The first one being that there seems to be some sort of “Catch-22” with the disclosure with regards to the medical community, which is the idea that different factions of the government have stated over and over again, “If you medically have problems with what is being sprayed, then you need to report such. We need to know what these problems specifically are.” But without knowing what is actually being sprayed or used or abused, it is very, very difficult to say, “Well, I think that this medical reaction is a reaction to ‘x, y or z,’” because we do not know what “x, y, or z” are, so it is impossible to state a medical reaction to something that you do not know. If we do not have disclosure, there is no way to say what anybody is responding to. That is the first “Catch-22” that I see in terms of disclosure. We just want and need basic information like what, when, where, and how much? That is the basic right to know that we deserve. I also believe that it is important to recognize or remember that when we say that the GMO foods are— some gentleman was testifying earlier that GMO foods are available and everybody is eating them, they are all over, and we have been eating them for years— certainly, that is true and if you are informed in the medical community at all, you are aware that so are autoimmune diseases, autism, and all kinds of cancer are all on the rise. Is there a correlation? It is hard to say because with we do not know and we do not have the information. There is GMO food available everywhere, but if you look around globally, you will see that many, many countries are rejecting the GMO foods coming from this Country. Most recently, again, China has said, “Absolutely not. We will not take that food.” You have to remember that this is China that we are talking about. They have some of the worst policies globally. They will not take the food. So that is kind of disturbing. As you have all been elected to the office to uphold the laws of the land and to protect and to serve, I think it is really important for all of us to keep in mind if we do not protect this land now, there will be nothing worth protecting in future. Thank you all. I appreciate you being here. *Aloha*.

Councilmember Chock: Thank you. Next speaker, please.

Ms. Fountain-Tanigawa: The next speaker is Brandi Titus, followed by Wendy Raebeck.

BRANDI TITUS: Where is Ross? I am Brandi Titus. I testified four (4) times last year to pass this Bill. My whole life has been a testimony for this cause. I wonder if you can imagine what chronic childhood illness for a child might be like? I told you about my stepfather who worked with pesticides for ten (10) years and he died at forty-five (45) from cancer, but I never told you that I lived on his jobsite. I am literally a survivor of childhood pesticide exposure. I never knew to say “no” to the medications that they would give me to try and cure the ear, nose, and throat infections that never went away. The strep throat was the worse and it seemed to last for months on end. When I was missing school, that was the worst. I was going to school sick, when I could barely speak

and being called upon to read. Look how nervous I am today. My family exposed me to pesticides for ten (10) years and I have a lot of hard feelings about that because my mother is sick with Graves' Disease. My little sister, who was born on the golf course, was diagnosed with a chemical imbalance so severe that she has been declared legally disabled. So to perpetuate chemical exposure on communities specifically so close to schools is just outrageous to me. We have to do something about this. For me looking back, would it have made a difference to know what my family was being exposed to? I only had one (1) person to ask and that was my stepfather's father, so I did not want to ask him. Who wants to accuse your family of poisoning you? That is what we are dealing with in this community. Really, a ban on pesticides is what we need on this island. I do not even know what to say of what is left of this Bill. Please do not kill it and do not take it away from us. Thank you all so much for going through all of it with us. It has been a journey.

Councilmember Chock: Thank you. I have an announcement. Someone dropped a card as well and I think it says "Malia" on the back of it, so if you lost a card, please come see one of our Council Services Staff. Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Wendy Raebeck, followed by Stacey Lindberg.

WENDY RAEBECK: *Aloha.* I want to congratulate the County Councilmembers that are returning and very sorry for the ones that are not. My name is Wendy Raebeck. I am in favor of receiving this Proposed Draft Bill (No. 2562). GMO companies are waging global war on innocent communities and on the earth. It is not a secret. Sixty (60) countries have banned GMO products. States and countries nationwide are ruling for bans and labeling. We on Kaua'i are vastly more familiar with the entire issue than people in Oregon, Colorado, Vermont, New York, California, and elsewhere. But we are presently lying down in front of the GMO bulldozers. We are also jeopardizing our primary industry over this issue. Tourism is what employs Kaua'i, not the chemical companies. The chemical companies will kill tourism if we do not boot them out. Maui is clearing them out. Hawai'i Island is clearing them out. On Kaua'i, we kiss their feet and surrender our own residents and their homes as guinea pigs. I know it is not the people in this room, but there are people on Kaua'i that are fighting to keep these companies here. It does not make sense. As for the money, it is "penny-wise, pound-foolish" to say that we cannot afford to fight this. Can we afford to be known as "The Poisoned Garden Isle?" For our groundwater— does the rain filter out the chemicals as it seeps into the fields? We are going to be drinking these chemicals— all of us. We have to stop it. I have a question for you, Mel. Am I allowed to ask a question?

Councilmember Rapozo: Address the Chair.

Councilmember Chock: Why do you not pose the question here and at the end of the testimony, it can be answered.

Ms. Raebeck: I wish Ross was here as well, but I do not understand why you would present this Bill, and then when we are all gathered here, just instantly take it back saying that you can count because you could count the day before yesterday.

Councilmember Rapozo: Can I answer?

Councilmember Chock: Go ahead.

Councilmember Rapozo: I do not know if you were here early on.
Were you here when we started?

Ms. Raebeck: No.

Councilmember Rapozo: I think I made it clear that I submitted the request for this Bill on August... about four (4) days after the ruling from the Federal Judge, which was the right thing to do. When Federal Court invalidates a law, you need to repeal the law. That was prior to the appeal being filed. Then that communication took its course and we are here today. Obviously, the response from the public and my colleagues in their testimonies or in their communications, it was clear to me that this Bill stood no chance. That is why I did not make the motion right away. I expected them to make a motion to receive to kill it. I do not know if I am answering your question, but...

Ms. Raebeck: It is very confusing to the public is what I am trying to say.

Councilmember Rapozo: Well, I do not know how else to make it more clear. The fact of the matter is that if Federal Court invalidates a law, then you repeal the law.

Ms. Raebeck: The timing seems a little funny.

Councilmember Rapozo: Again, in August I submitted the request for the Bill, right after the Federal Court made the ruling. I can hear the chuckling and that is fine. This is a public forum, but it is what it is.

Ms. Raebeck: Thank you.

Councilmember Rapozo: You are welcome.

Councilmember Chock: Thank you. Do you have a question for her?

Councilmember Hooser: I have a point of clarification or personal privilege. Again, as we go through and rather than save all the clarifications, I think it is important to clarify and perhaps Councilmember Rapozo could further clarify that I have heard from both Councilmember Kagawa and Councilmember Rapozo that it was not their intent to have this on the agenda. The letter to the Chair is dated October 20th and it is initialed by both Councilmember Rapozo and Councilmember Kagawa asking the Chair to put it on the agenda for today. There seems to be a conflict of information and I would like some clarity. I think the public needs some clarity also.

Councilmember Rapozo: There is no conflict. I do not know what conflict you are talking about. I am saying that the request for the Bill...

Councilmember Hooser: The letter that you guys signed to the Chair requests today.

Councilmember Rapozo: Exactly. We asked in the original... I did in the original— mine and Councilmember Kagawa's were separate apparently. He did it the day of or the day after and I did mine four (4) days after. My request was to get it on the agenda as soon as possible and when Staff called me to initial the

request for the agenda, I did, which I always do and it happened to be for today. Politically, do you really think it was wise to put it on the day after the Election? Would that make my chances any better? I know the reference in your blog, as well as Facebook, that this was gamesmanship and all of that, and I did not know if you wanted to go into this here, Mr. Chair.

Councilmember Chock: Not really.

Councilmember Rapozo: This is totally off subject, but the bottom line is that I submitted the request to remove a bill that was invalidated by Federal Court. Through the delays like the County Attorneys and their resources to review to Bill, it showed up on my desk for signature, which I initialed to get it on the next agenda, which happened to be today. I wish I would have read that stinking memo better, but I did not. I initialed it thinking that it was going to on the first available agenda, and that happened to be today. Again, politically was that a wise choice? Absolutely not. But it happened that way and that is how it is.

Councilmember Chock: Thank you. Do you have another question for Councilmember Rapozo?

Councilmember Bynum: I have further clarifications.

Councilmember Chock: On the same item? Okay. Let us get this part out of the way and get back to our public testimony.

Councilmember Bynum: We are governed by the first and fourteenth amendment that says "freedom of speech" and "equal protection." That means you cannot have one set of rules for one set of people and a different set of rules for a different set. The fact is that placement on the agenda for the last four (4) months has been intensely scrutinized by all Councilmembers. I had difficulty getting items that I thought were important on the agenda. This is not the first time that Councilmembers have put something on the agenda and come in and say, "I did not intend this." When I sign a memo, I know what I am saying. I made a statement to the press and said, "Use the whole statement, please." They did not. I have struggled to get stuff on the agenda and have been delayed. This was very purposeful. That is what the records show. This is the way we operate around here. Believe me. What goes on the agenda and what does not over the last five (5) months have been intensely scrutinized by everyone because there is a power struggle about getting a public voice and there are many documented instances where public voice has been squelched. Today, is not one of them, thank goodness.

Councilmember Rapozo: I just want to ask a process question. Is this how it is going to be?

Councilmember Chock: I would like to end this discussion here if possible.

Councilmember Rapozo: I choose to sit here knowing that I am going to be a target of a lot of public scrutiny, but I can deal with that. I think our rules prohibit other members for doing what is being done. I can take it. I am a big boy. I want to move on and get through this.

Councilmember Chock: I would like to move on too.

Councilmember Rapozo: Thank you.

Councilmember Chock: Thank you for the comments. Let us move on. Let us go to the next testifier please.

Ms. Fountain-Tanigawa: The next speaker is Stacey Lindberg.

STACEY LINDBERG: *Aloha.* My name is Stacey Lindberg and I am here representing myself and my family. I grew up in Moses Lake, Washington. It is the site of an agricultural disaster that happened about ten (10) years ago. I am a victim of serious pesticide exposure and have fought most of my life to try to limit it and limit what my children are exposed to. I moved to Kaua'i about fifteen (15) years ago to get away from the West Coast and what was going on there and seeing that. This place— we could grow a lot of food and have year-round growing. I just thought it was amazing and I thought that the people here were doing amazing things. When I showed up, I saw McDonalds. I did not know there was McDonalds in Hawai'i. I was very disappointed as a nineteen (19) year old woman trying to find myself in a place that was new. I really realized that the United States had really taken over the Hawaiian Islands and that really upset me because I have seen them overtake pretty much the whole world. I am here just here to remind everybody that these are not good people. The owners of these companies are basically murderers of many people all around the world, not just in our Country. There are countries all over the world that have said, "No, we will not let you come here. We will not let you destroy our water and our soil." Can I ask you guys, "Do you eat food? Do you drink water? Do you ever think about these things for your children and grandchildren and their grandchildren because that is who you need to be thinking about?" I see a lot of kids all of the time. I work with them here on the east side and luckily, I have not seen a lot of pesticide exposure, but there is quite a bit. There are a lot of people with different birth defects going on, major, major autism problems, learning disabilities, and a lot of nosebleeds from the kids that I see. We are wondering why you guys are doing this and why you guys are not standing up for the island and encouraging people to grow their own food. Give people land to grow food. Give them seeds. Show them how to do it. We have everything we need on this island to get it done.

Ms. Fountain-Tanigawa: Three (3) minutes.

Ms. Lindberg: We do not need anything from those people over there or these big companies. I just thank you for hopefully making the right decision for the people, the children, and the future generations.

Councilmember Chock: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Harvest Edmonds, followed by Karin Medigovich.

HARVEST EDMONDS: *Aloha.* My name is Harvest Edmonds. I just wanted to let you all know that I was very disappointed when I saw in the paper and heard that Councilmembers had proposed this Bill to repeal what we all fought so hard for. It was very confusing. Now I know a little bit more about when you did it. That still does not mean that I am any less disappointed. I do want to say also that I am extremely disappointed that Ross is not here. He is one of the Councilmembers that proposed this Bill, and I guess, Mel, you are getting all the heat that he would have shared with you. I do approve the motion to receive this and to also kill the appeal. I think it is really a total waste of time of all of our time to come down here again and revisit all of this that we all fought so hard for and it

is a waste your time also. There are always arguments about how the Federal government has labeled all of these pesticides and how we need to have our faith in their testing and all of that. The bottom line for me, and I think for this island, is what is happening to the people? What is happening to the children that are being born with birth defects? What is happening to all the people that are dying of cancer? There has to be studies done on all of this and this has to be stopped. We have to put the people before the corporations and before the money. Thank you.

Councilmember Chock: Thank you, Harvest. Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Karin Medigovich, followed by Fern Rosenstiel.

KARIN MEDIGOVICH: Hi. My name is Karin Medigovich. I live in Waimea, just across the fields. Even though they have a twenty (20) foot fence, which apparently if you work over there, you do not even see Waimea. I have been told this recently. Mel and I were talking about trying to get all of us together and have conversations about what each of us knows, so that we can understand. Recently, I found out that the workers do not know that when they drive their trucker that all that dust comes right into my house because they are right next to a twenty (20) foot fence. A twenty (20) foot fence does not do anything for a two hundred (200) foot plume. Anyway, I am here to say that I think we should just keep going as we were and we should stop this appeal. I am sorry that I cannot seem to get the reverse wording that is correct, but I think you know why I am here.

Councilmember Rapozo: The repeal. Stop the repeal, not the appeal.

Ms. Medigovich: Thank you, the repeal. I want to say something important here. What I was looking for here is that I was talking to my neighbors about the third time that I had this strange vomiting episode, and I have only been living there for six (6) years. It is really weird. I never had anything like this before, where I am either walking on the grounds of the hospital outside at night or I am in my garden, and I suddenly feel like I had a six-pack, which I have not done since high school. Then, I maybe actually start feeling a bit grandiose and go in the house and just vomit. It is like what the heck? I am shaky and it is really weird. I look at this thing that I have been given from some—I do not know what I am supposed to say. I am part of a lawsuit because I want these guys to stop spraying my house and my community, and stop them from putting their dirt on my house. They have sent me a notification. It is really like “Nazi.” “Today, we are going to be spraying your house from 9:00 to 5:00 and we will be spraying your house Monday through Friday this week,” or, “We will be doing ‘this’ this week.” They do not tell me what. So I do not know why I vomited on that Thursday, but not the week before. Apparently, they used something around ninety (90) different chemicals and they mix them all up and do anything they want with them. So this idea of tracking it without really knowing what it is, is impossible. The regulation is as was said. The regulation is not going to be able to happen if they do not first disclose.

Ms. Fountain-Tanigawa: Three (3) minutes.

Ms. Medigovich: I hope I said something that was helpful and new.

Councilmember Chock: Thank you. Councilmember Rapozo has a question.

Councilmember Rapozo: Just a real quick question. When you have these episodes of vomiting or what have you, the dirt and dust; are you reporting that as well?

Ms. Medigovich: Yes, I have gone to the emergency room once out of three (3) times. The first time, I casually went to the emergency room because I work at the hospital. I checked it out and I put on a mask and think, "I have the twenty-four (24) hour flu, but it is not like any twenty-four (24) hour flu that I have ever had. Last time, they thought maybe it was heat. They did not know. When I looked on my notification, they had been spraying all week that week and it was now Friday, so it had been a few days. I reported it, but the issue is, and I have talked with Gary about this, is that it needs to be so that people who live in Waimea go in and say, "I think I have been sprayed with pesticides." Then somebody says, "Let me check that for you. Let me take a urine sample for you. Let me have a blood test for you." Not, "It is probably heat, so let us give you some fluids."

Councilmember Rapozo: I guess besides going to the emergency room and reporting if there, have you reported it with the Department of Agriculture?

Ms. Medigovich: I can never get through to Ann Kam when I call her. I have called her a number of times. Occasionally, she will call me back a couple weeks later. The poor thing is very overworked.

Councilmember Rapozo: So that is your extent, which is calling Ann or the Department of Agriculture Office.

Ms. Medigovich: I think one time I called the Fire Department when I smelled something in my driveway.

Councilmember Rapozo: I am really interested in getting a database of these episodes.

Ms. Medigovich: Yes, I think that would be fabulous.

Councilmember Rapozo: There needs to be a clearinghouse where all the call goes to, so it can be tracked.

Ms. Medigovich: The problem is we have Health Insurance Portability and Accountability Act (HIPAA) laws, so the most important ones that the information, as Wendell has talked about— if we can get some of those records released from the hospital about people reporting, and then we would be doing a lot better. We do not know what our cancer rates are. They clump it in with the whole State. They do all kinds of funny things to really keep us from knowing what is going on. Thank you.

Councilmember Chock: You have a question from Councilmember Yukimura.

Councilmember Yukimura: I, too, agree that a good database would be very helpful. Do you just keep track for your own purposes a log of when these things happen to you, health wise, which might someday be correlated? You already did an informal correlation with the company's notification of you saying, "I realized that one time I threw up and they had been spraying all week." Do you at

least just keep those three things: date, time, and symptoms? If everybody does that— when you call Ann Kam, even if you cannot reach her, can you just give her that data on the recorder phone because I am thinking that they have an obligation to keep a record of that too?

Ms. Medigovich: I think that is a really good point that we should all keep better records. I have been in a multiple of abusive situations. I have had an abusive husband and other situations where I was told by people that I needed to keep really good records. I have also been told that when dealing with people who have mental problems that we should keep records of these things. I do not know what to say to you other than I am a bad record keeper. What I am trying to say is that I am here today and there are so many of my neighbors that are not. I am trying to give you some feedback, but it is very difficult to be on your way to work— I am grateful for this because I do have records on here.

Councilmember Yukimura: If we are committed to getting to the bottom of this, it is going to be important that we keep records.

Ms. Medigovich: I know and I hear what you are saying.

Councilmember Yukimura: The iPhone is what you just showed me, right?

Ms. Medigovich: Yes.

Councilmember Yukimura: That is giving us many more possibilities with ease in doing it, so I think all of us who are want to establish a connection need to do that. Thank you.

Ms. Medigovich: We need advocacy for being better witnesses for that. If there is anything that can be put in— for us to have to do it all, it is just an extra burden. Many of us are already (inaudible). Thank you.

Councilmember Yukimura: Thank you. There is no way unless we give the data that is affecting us that we are going to be able to move forward, so maybe working with the Department of Agriculture so they just at least keep a record of all of the calls and if people just give the data...

Ms. Medigovich: I do not understand why when you go to the hospital and if you were to say, "I think it is a chemical spray and I would like this to be reported," for example, if you could say something like that, then they would have a list and write it down. It is just trying to get those little things worked out because it goes into your file and it is private, and then we have to subpoena the whole file. Tim, did you have a question?

Councilmember Chock: Hold on. Councilmember Yukimura still has the floor.

Ms. Medigovich: I am sorry.

Councilmember Yukimura: Thank you. I have explored this with the hospitals. Because you are not going to ask for personal information, you want data, but it is how... there is no consistent way doctors are reporting or gathering information from their patients. That is one of the problems as well. We need the cooperation of the medical facilities to establish— right now, their medical records,

from what I hear, are a mess. That is another issue that has to be addressed if we are to get good data. Good data is very powerful.

Ms. Medigovich: I proposed a separate, volunteer kind of organization and a website that we would form that people could go in and say, "This has happened to me." I still think that would be a good thing if our community could organize to do that.

Councilmember Yukimura: You would just have to make sure that there is integrity is in the process, so it is credible results. Thank you.

Ms. Medigovich: I know. Thank you.

Councilmember Chock: You have one more question from Councilmember Bynum.

Councilmember Bynum: Have you ever made a complaint or expressed a concern to the County of Kaua'i?

Ms. Medigovich: No. I would not know how to do that.

Councilmember Bynum: That was my next question: "If you did, who would you call?"

Ms. Medigovich: Yes. Who would I call in the County? I think best I could do is call the Fire Department.

Councilmember Bynum: Okay. Thank you.

Ms. Medigovich: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Fern Rosenstiel, followed by Jerry Driscoll.

FERN ROSENSTIEL: Hi. For the record, my name is Fern Anuenue Rosenstiel. Is it rude of me to ask for Mel to return? Can I wait?

Councilmember Chock: We could move to another speaker. Is that okay for you?

Ms. Rosenstiel: Is that okay?

Councilmember Chock: Let us pass it on to the next speaker.

Ms. Fountain-Tanigawa: The next speaker is Jerry Driscoll.

JERRY DRISCOLL: I am Jerry Driscoll, a retired Professor of Chemistry from the University of Utah and I am aware of many of these problems. The latest study I have come across was from the University of California at Davis, where they studied the cancer rates and other serious health problems in the California Central Valley, and these are statistical studies because you really cannot prove anything by personal experience. From the study, as you go from the agricultural area out, away from it, there is a decline in these serious defects. From that statistical data, you interpret that there is something going on in that area and this study supports many of them that pesticides, fertilizers, and herbicides are

causing direct, significant statistical effects. Personally, my family comes from Idaho, which is an agricultural area. My brother has Parkinson's and when he went to the University of Utah, he stepped in the door and the doctor said that the minute he stepped in the door he knew that he had Parkinson's. We do not know what causes Parkinson's, but the doctor says, "Are you in an agricultural area? Were you around pesticides?" My brother said, "Yes, all my life." The doctor says, "Well, you have a two hundred fifty percent (250%) chance of having Parkinson's because of that exposure on a long-term basis." My multibillionaire cousin who lives in Sonoma County, where they have totally banned fertilizers, pesticides, and herbicides, he has an allergy. Allergies can be sensitive down to a trillion times lower exposure for the normal person. He eats something and has a reaction to it if it has pesticides, so he eats organic materials. There are some experiences. I would like to quote Martin Luther King. I believe that we should be responsible as individuals, businesses, and corporations for things that affect public health. Martin Luther King said, "The law may not change the heart, but it restrains the heartless." You have to keep at it. It is a long, hard battle to bring about these changes from a political point of view. We chemists sometimes know what to do, but I just admire your people who fight to make the change. There are serious problems and I believe we should move ahead. Thank you.

Councilmember Chock: Mr. Driscoll, we have a question from Councilmember Yukimura, followed by Councilmember Bynum.

Councilmember Yukimura: Is it "Dr. Driscoll?"

Mr. Driscoll: Yes.

Councilmember Yukimura: Thank you very much. Would you be able to direct us to these studies that were done in Davis?

Mr. Driscoll: Yes, I will give you those studies.

Councilmember Yukimura: Okay. Thank you.

Mr. Driscoll: I might add that there are other studies dealing with polycarbonates, all these bottles that we get Coke in and water bottles. All of our cans are lined with polycarbonates. It turns out that there has been two hundred twelve (212) studies of that and the industry has done one hundred (100) and the industry say, "All their studies say there is no problem," but they hired the same research companies that tobacco companies did. The academic (inaudible) said that out of the two hundred twelve (212), ninety-three percent (93%) said that there was a problem and it accounts for ten (10) defects that are now increased among the population of our children.

Councilmember Yukimura: Wow. Thank you. You also mentioned that there was some County that banned pesticides.

Mr. Driscoll: Yes, Sonoma County in California.

Councilmember Yukimura: Sonoma?

Mr. Driscoll: Yes, all pesticides, fertilizers, and herbicides. They raise grapes up there. They are wine country.

Councilmember Yukimura: They banned fertilizers too?

Mr. Driscoll: Yes, artificial fertilizers, not organic fertilizers.

Councilmember Yukimura: Are there statistically significant studies showing...

Mr. Driscoll: I cannot give you that on Sonoma County, no.

Councilmember Yukimura: Okay.

Mr. Driscoll: Other than if would probably fall under the norms that the other studies have shown.

Councilmember Yukimura: Okay. The ban has been upheld in Court? Do you know?

Mr. Driscoll: No one has challenged it apparently.

Councilmember Yukimura: How long has it been in place?

Mr. Driscoll: I would have to ask my cousin. If you would like me to report back to you, I can.

Councilmember Yukimura: Yes, I would. Thank you.

Mr. Driscoll: Okay.

Councilmember Chock: You have one more question from Councilmember Bynum.

Councilmember Bynum: Thank you for your testimony today. I wanted to know if you got this information from the American Academy of Pediatrics paper.

Mr. Driscoll: No, it was on the internet.

Councilmember Bynum: Are you familiar with the American Academy of Pediatrics paper?

Mr. Driscoll: I am familiar, but I do not read their literature.

Councilmember Bynum: The Washington studies that you mentioned— that was done at Washington State University? Is that you are referring to?

Mr. Driscoll: No, I am not aware of that one either.

Councilmember Bynum: Okay. Thank you very much.

Mr. Driscoll: You bet.

Councilmember Chock: Fern, you can come up to testify now.

Ms. Rosenstiel: One more time for the record, my name is Fern Anuenue Rosenstiel. I would like to thank you all very much for all your efforts over the last few years. For me, this has been over two (2) years now that I have been working on this issue. I am grateful for your clarifications, Mel, and the dates. I am not going to hate on you for bad scheduling. I do, however, have a lot of things that I would like to help clarify today. I am hearing a lot of things being said that I am concerned about because it does perpetuate misinformation. First of all, politics are very confusing for the people. I would just like to say that a lot of the people who have gone through this experience with me have no idea about scheduling or no idea about politics and how these things have worked. Please be understanding that for a lot of us, especially for me and generation, we have learned a lot in the last two (2) years about politics and how this all plays out. We have gained a lot of information, but we are learning. For us, a lot of times when we hear these words and announcements of repeals—we do not even know if there is going to be a new Council the day after the Election? A lot of people were asking me that. People do not understand, so please understand that. First of all, specifically the Good Neighbor Program is failing. There has been mention of that earlier and I would like to talk to you more about how the system is failing. There have been people talking about being unable to find specific lots and details. As an Environmental Scientist, my degree has always taught me to first have the data before we make the decisions, which is why we have the kind of Bill that I think we have. It really was seeking answers for certain things that are very specific. “What is being applied to what field, so we can monitor run-off in the form of drift through the air, run-off, surface water, and groundwater?” There are many ways that exposure can leach from properties. It is really about containing, which is the law that the pesticides are contained on the property to which they are applied. That is on the label, so it is actually a breach of the law when you start to think about these things drifting off property. That is another subject. Organic pesticides are not the same caliber as organophosphate... highly persistent and never breaking down chemicals. That is why everything on Earth still has remnants of DDT and such. It is not going to cost money. Really, in a couple of years, we will be making money off of Bill No. 2491 because we will be making money in the fact that we found out a lot of taxes that were not being paid are being paid and when you start to balance that out—to me, this is a measure win financially for our economy as well. That is totally not a legitimate excuse. Twelve thousand dollars (\$12,000) is definitely worth trying to help figure out the health and life of our people. I remind everybody that there are experimental permits issued for this island, so that is not coming up again today and I would like to everybody to be reminded that we have experimental use permits for this islands, which means that the Federal government has granted these corporations the right to experiment in your backyard. The normal legalities of legislation that outline on a label are not necessarily taken into consideration because these are experimental pesticides permits that, mind you, we still cannot get access to. With the limited Good Neighbor data that we are getting from stuff like chlorpyrifos, we are sitting at a ten (10) times national average application per acre. That is extremely concerning. If anything, the information that we have been given since the passing of this Bill is that we have a much bigger concern that we may have even estimated in the beginning and that this needs more work, not less. Before we start looking at repeals, let us look at stronger bills. Before we introduce a repeal to take back a bill while the Court is still determining what is going on...

Ms. Fountain-Tanigawa: Three (3) minutes.

Ms. Rosenstiel: I remind you that the judicial system is there to determine the legalities of this very new front of law. I ask you to please remember your constitutional requirement to protect health and life because the Constitution requires that this Council protects the health and life of the people, even if it costs twelve thousand dollars (\$12,000). I really appreciate your time.

Councilmember Chock: Thank you, Fern. Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Linda Driscoll, followed by Jeri Di Pietro.

LINDA DRISCOLL: My name is Linda Driscoll. I am grateful to be here today. I congratulate all of you on the time and effort you put into studying these issues and appearing to help govern our County. I know that it is not easy to go through the process of election and it is not always popular to take stands that you take. However, I am sure you have all had visitors come and say, "Well, when I go back to the US, meaning the mainland, and it brings a little chuckle. Because we are so far away, they do not sometimes realize that we really are Americans. But of late, it has not made me chuckle because in the Constitution of the United States, it begins, "We the people of the United States of America in order to form a more perfect union, establish justice, and provide for the general welfare." I do not believe that we are providing for the general welfare here when we have people dying. The hospital records are indicating that they are dying of things that could be or are related to chemical pesticides, herbicides, etcetera. I think when we have as much evidence as we have, that it needs to be really investigated and looked at as to what we can do about getting this stopped because we are not being provided our constitutional rights when we are being denied— providing for the general welfare. I have to start from the beginning of the Constitution. We are not providing the general welfare of the people, especially the people on the west side. It is growing. It is kind of like a little cancer that is coming across the island and invading more parts of the island, so that is my testimony. I think we really need to look at this. As Americans, we are guaranteed so many things that other countries are not, and yet, if we are not receiving those guarantees, then we are no better than a third world country. This is my testimony.

Councilmember Chock: Thank you. Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Jeri Di Pietro, followed by Nicolle Jones.

JERI DI PIETRO: *Mahalo* and good morning, Council. My name is Jeri Di Pietro and I am in support of the motion to receive Proposed Draft Bill (No. 2562). I strongly oppose the repeal of Ordinance No. 960. The citizens have begged the State to step up for better safety and testing for over a decade and they have not. The small air samplings have captured the presence of chlorpyrifos, not only at the Waimea Canyon Middle School, but also in Kekaha to a resident. He is more than three thousand (3,000) feet away and he is not privy to the Good Neighbor Policy, yet we have detected chlorpyrifos coming into his home. This resident is not helped, but he does incur the impact. We seriously need to study our air, water, pollinators and our soil for microorganism damage. We have to *mālama* the *āina*. We have to open our eyes and step into the light. We need willingness here. No one, anywhere is fighting to keep these poison agricultural companies as the dominant economic force. This is not farming. There is no life in these fields. Instead of clinging to the embracement of chemical test fields, we should choose diversified agriculture. We could have already had new jobs if we had not

continually lacked the political will to change to diversified agriculture and local food production. It is obvious what is going on here. When the money is influencing our leaders, more than thousands of testimonies were given, we had better not weaken anything that will thwart our current status. We need these safety tests done, proper mapping, and a database. We cannot fear lawsuits. These chemical companies pledge to sue anyone, anywhere, or anytime. It is unfortunate, surely, but we must stand firm on this investigation. Citizens did not bring this cost on. Our "Good Neighbors" should not sue us. For anyone who says if only they had conclusive science, I would say that we have brought a parade of experts through nearly every neighborhood center. Please let me know who would you like to hear from again and we will fly them over to speak with you one-on-one. Please quit saying that the community is divided and your words are things. Is that what you are trying to create? We had one thousand seven hundred (1,700) people packed into the memorial hall to hear Vandana Shiva; two thousand (2,000) people marched in the rain in Po'ipū; and over four thousand (4,000) people filled Rice Street. This is not ecology and this is an insane way to produce seed. Let us pursue the needed steps to get back to rich biodiversity. We are not foolishly chasing false hope, but we do continue to hold hope in our hearts, in the blind faith, that we can create local food sustainability. Any questions?

Councilmember Chock: You have one question from Councilmember Yukimura.

Councilmember Yukimura: Jeri, you mentioned that you detected chlorpyrifos in a home. How did you do that?

Ms. Di Pietro: We detected it through air sampling.

Councilmember Yukimura: Who did that?

Ms. Di Pietro: Hawai'i Seed did that through a laboratory. We collected samples and sent them to the laboratory.

Councilmember Yukimura: Not air samples? Dust samples?

Ms. Di Pietro: Air samples that would detect the presence of chemicals in the air.

Councilmember Yukimura: Okay. Do you have a laboratory report that we could see?

Ms. Di Pietro: Yes, I do.

Councilmember Yukimura: Okay. Thank you.

Ms. Di Pietro: Also, we have a phone number and would be happy to help with any reporting. We have a special phone at 651-3630 if anyone would like to leave messages on what they are observing on particular days or experiencing.

Councilmember Yukimura: I think what is needed is a third party person doing the procedure that is delineated, and then my understanding is that you have verifying tests, so you know that there is no error. It is just a scientific process, I think, and I see Louisa nodding her head that she does it in her own work. Thank you.

Ms. Di Pietro: Absolutely. Thank you.

Councilmember Chock: Thank you.

Ms. Fountain-Tanigawa: The next speaker is Nicolle Jones, followed by Mahana Mari.

NICOLLE JONES: My name is Nicolle Jones. I am in support of Ordinance No. 960 being received. My heart is pounding. I am twenty-five (25) years old and it is pretty clear to me that I am born into a globalized society where everybody is becoming more communicative from all different places in the world. I have become aware that Monsanto has been removed and banned from Austria, Bulgaria, Germany, Greece, Hungary, Ireland, Japan, Luxemburg, New Zealand, Peru, South Australia, Russia, France, and Switzerland. When I look at the bigger picture, I see that people all around the world are coming together to make the world a better place. Even though we face some poisons that are here on our island, a lot of people are connected with Hawai'i and are supporting us as we move forward into a progressive and healthy future. The last thing I would like to say is that it is great that we are all here today and that we are actually honing into receive more clarity on what is being used on our lands and I think we should feel excited that Ordinance No. 960 is going to be received, so that we know— what are details? As I see it, we are focusing the light of conscientiousness into an area where there is not much transparency where there are questions and there is the unknown. With that awareness, we are just looking at getting clarity, having transparency, and identifying what is being used on our lands. When that is known, we come together and it is natural for us to then make the decisions that are healthy for not only ourselves, but for everything that is here because that is the natural human nature, when we come down to it, as I see it. If you have any questions, I would love to hear them. If not, I am done. Thank you.

Councilmember Chock: Thank you. We have a question.

Councilmember Yukimura: When you say that Monsanto was banned, are you saying that GMO was banned or was the company actually banned?

Ms. Jones: It was the company.

Councilmember Yukimura: Okay. Thank you.

Councilmember Chock: Thank you. Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Mahana Mari, followed by Dr. Peter Cohen.

MAHANA MARI: *Aloha*, Councilmembers. Nice to see you all again. As many of you remember, this is my fourth time testifying. My name is Mahana Mari and I am here representing "we the people." As many of you all know, I have been taking care of my mom who has Stage 3 breast cancer. She has tumor that is six (6) inches by five (5) over her heart. I had to take her to the emergency room with a one hundred four (104) temperature the other day and she almost died in my arms. We cannot test what is in her blood and what gave her cancer because these chemical cartels will not disclose what they are spraying. Yes, I live on the North Shore and they say, "We do not spray on the North Shore." How do we know? How do we know anything? If nobody is disclosing, how do we know

anything. I understand that everybody is doing their job. I have deep respect for Councilmembers Hooser, Bynum, and Chock for all of the hard work that they have done. This has gotten to be too much. If you all could really put yourselves in our position, as we the people— so your mom suddenly has Stage 3 breast cancer and she almost dies in your arms. How about that? These are real problems. This is not just politics. What I have to say with my fourth testimony today is that the time is now to evict and ban the chemical cartel off Kaua'i permanently, and that is Dow, DuPont, Syngenta, Pioneer, and BASF. They have sued "we the people," and that includes each one of you. They have sued us a people. They are the opposite of being good neighbors, as we all know, and that they are willfully harming the precious children of Kaua'i and all the people. This is completely against both the Hawaiian and United States Constitution and we all know that this is illegal and wrong. I will not stand for this type of injustice and neither should you. I will always protect what I love. I look forward to Kaua'i's healthy future for us to all live *pono* and live *aloha*. *Mahalo* for making the right decision.

Councilmember Chock: *Mahalo*. Next Speaker.

Ms. Fountain-Tanigawa: The next speaker is Dr. Peter Cohen, followed by Andrew Cabebe.

DR. PETER COHEN: Good morning. My name is Dr. Peter Cohen. I am a Board Certified General Internal Medicine Doctor and have been practicing for over twenty (20) years, seven (7) of which included on the Garden Island here on Kaua'i. I would like to say that I am against the use of GMOs and the American Academy of Environmental Medicine also states that we should advise our patients not to eat GMO foods. I am not speaking on their behalf, but— I wanted to make one point: If Councilmember Yukimura wanted to do a study on this, it is going to take thousands of dollars and it is going to take many years for you to get that data. So I will say that you may want to look at other studies that have been done and there is a recent publication called *GMO Deception* by Sheldon Krimsky where he cites twenty-two (22) independent studies that show the harm of genetically engineered foods and pesticides. You may not want to reinvent the wheel here and you could look at data that is already out there because the way this has been presented to the public is the Food and Drug Administration (FDA) Chairman, who was a former head lawyer, Michael Taylor for Monsanto, actually made a policy statement saying that these foods are equal without any science and he made a declaration and put the burden of proof on the scientific community to disprove. We are making a large assumption this is safe, and by doing so, we are becoming the guinea pigs. I will tell you that in my practice, I have seen many of these people that are sick and harmed, and I cannot do a study from just the limited number of these patients I see, but it is just my experience over twenty (20) years that my patients have become more and more sick with diabetes, cancer, and auto immune diseases. I can only assume that it is from the food, the environment, and the stress in people's lives because there are no other changes that I have seen over the years. I just encourage you to use the data that is already out there. If you see the "canary in the coalmine" warning you, then you may want to listen to what evidence is already out there. The book is "GMO Deception" by Sheldon Krimsky and it is a very wonderful book that will give you a lot of information. We do not want to be on the backside of this like tobacco. After tobacco was discovered to be harmful in animals, we discovered that these chemicals in foods are harmful in animals. We do not want to wait until they get to be proven harmful for people, is what I would say.

Councilmember Chock: Dr. Cohen, we have a question from Councilmember Yukimura.

Councilmember Yukimura: Dr. Cohen, I am looking at research on pesticides, is what I was asking for. Are aware that Ordinance No. 960 has nothing to do about banning GMO crops?

Mr. Cohen: Yes.

Councilmember Yukimura: You are aware?

Mr. Cohen: Yes.

Councilmember Yukimura: Thank you.

Councilmember Chock: Clerk, how many more registered speakers do we have?

Ms. Fountain-Tanigawa: We have one (1) last registered speaker and that is Andrew Cabebe.

Councilmember Chock: Okay. Thank you.

ANDREW CABEBE: *Aloha* everyone. My name is Andrew Cabebe. Some of you know me. My question is do you have a solution? We know everything going on already; we know. Scientists are stepping up and forward and making the points. What is the solution? Brother Mel, do you have a solution? Did you ever think about a solution? I do not blame you because we want to be like them out there, right at the very top with everything. That is how we are today. That is why we are in the position we are today. We do not have our rights like we used to. When the people came up, we had our rights, and you people defended us. Today, we have nobody to defend us. You all left us— well, not all of you, but the majority of you said, “Let us get rid of the people and we own everything.” We are worse than slaves today. The only difference is that you do not have the whip. It hurts me to listen to all of this. It makes me sick. I like throw up. It turns my stomach. I know some of you feel the same way. I cannot help. You can laugh about it, which I know you do. I see them out there. Where are our rights? Where has it gone today? Who is going to defend us? They have lied to us, these companies. We know they have lied to us. I knew about this fifty (50) years ago. In grade school, they were saying, “You are not going live until fifty (50).” I want to thank them because I always wondered as a kid, “Why are they teaching me this?” “Do not eat the red dye. Do not eat this hot dog. Do not eat these canned goods if you want to live.” They thought me right. Today, they are not teaching us that. They are hiding all of the facts. You know that. I know that. That is only because I know there is something out there that is working for the people.

Councilmember Chock: Three (3) minutes, Mr. Cabebe.

Mr. Cabebe: Our laws come from the higher judge. That is where our laws come from. You guys do not underhand that. I know you do not understand that, except for a few of you.

Councilmember Chock: Thank you for your testimony. I am sorry that your time is up. *Mahalo*.

Mr. Cabebe: You can learn. There are people on your board that knows what I am talking about.

Councilmember Chock: *Mahalo.* Do we have anymore testimony?

Ms. Fountain-Tanigawa: We do not have any more registered speakers.

Councilmember Chock: I am going to have to break for lunch here. It is about 12:30 p.m. We have a 1:30 p.m. public hearing. We have a lot on our agenda today with a lot of Executive Sessions and more bills to look at. I just want to get a sense, but is there anyone here that wants to continue testimony or has not had a chance to and wants to testify? Has everyone had a chance?

Councilmember Yukimura: I would like to suggest that perhaps we finish this subject matter before lunch, especially if there is no more testimony and we just go to the vote and discussion.

Councilmember Chock: I would like to do that if we can do that quickly, so that people can get to lunch and we can get back to what we have on our agenda. If we can limit our discussion, I think that we are moving in a direction. Is that a yes? Let me call this meeting back to order. I will give Councilmember Bynum for discussion.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Bynum: This is for discussion right now?

Councilmember Chock: Yes.

Councilmember Bynum: Okay. Ordinance No. 960 is not about GMO food and its safety. I eat GMO food every day. It is hard to avoid. Most of you do as well. This Bill is about the health and safety of our citizens. It is about research practices that are occurring on Kaua'i that have led to very high quantities of restricted use pesticides being applied very frequently. The Bill was very modest. It asks for disclosure and buffer zones. Am I about to be interrupted?

Councilmember Chock: No, I just wanted to make clear. Are we in discussion here?

Councilmember Bynum: That is why I was asking.

Councilmember Chock: Okay.

Councilmember Bynum: Our rules allow me to speak twice for five (5) minutes and I am speaking for the first time right now.

Councilmember Chock: Okay. Good.

Councilmember Bynum: So this is about what is happening on Kaua'i. It is not about GMO food safety; it is about the research practices that have led to very high frequencies of restricted use pesticides being sprayed four (4) to six (6) times a week. It is a unique circumstance to Kaua'i. Our pediatricians— this is what turned it for me. Our pediatricians say that there is a clear and present danger today. Where did they say that? They said that in this release of a study of a paper called *Pesticide Exposure in Children* that reviewed one hundred ninety-five

(195) studies about facts. I am going to read some of that: "Pesticides are the collective term for a wide array of chemicals intended to kill unwanted pests, plants, molds, rodents, food and water treatment in yards, homes, and schools are all potential sources for exposure. Exposures with pesticides may be overt or sub-acute and effects range from acute to chronic toxicity. In 2008, pesticides was the ninth most common substance reported to poison control centers and approximately forty-five percent (45%) of all reports of pesticide poisonings were for children. Organophosphates and poisoning is perhaps the widely known acute poisoning syndrome." This is about children and children's unique vulnerabilities. The study says, "Children's exposure and vulnerabilities, mechanisms, and sources of exposure: children are uniquely vulnerable to uptake in adverse effects of pesticides because of developmental, dietary, and physiological factors. Exposures occur through ingestion, inhalation, and dermal contact. Unintentional inundation by children may be considerably higher than those who are adults because of the greater intake of food or fluids per pounds of body weight. Children exhibit frequent hand and mouth activity and this is an important source of increased exposure." They want to tell us about where these exposures happen like residential exposure. It is very useful. Read it. There are chemicals that I will never use again because I read this and I know which ones I can use in my home safely. It goes on to talk about residential factors and exposures in drinking water. On Kaua'i, our Department of Water has assured us that atrazine was no longer in the water, only to have the United States Department of Agriculture (USDA) find it in the drinking fountain at Waimea Canyon Middle School. So we have problems. It is in the food supply, they tell us in this article. Look at the food supply. They tell us that children who do organic diets for just five (5) days have less metabolites of pesticides coming out of their urine. That is very important. I am going to read about the agricultural related exposure. This is from our pediatricians: "Proximity to pesticide treated agricultural areas or household members that work with pesticides present another opportunity for contamination of the residential environment for some children. In a Washington State Study of Children of Agricultural Workers and Non-Agricultural Workers in an Agricultural Setting, pesticide levels in carpet dust and pesticide metabolites in urine of residents increased with self-reported proximity of homes to orchard fields and during pesticide application (inaudible). Similarly in agricultural settings in California, pesticide residues of three (3) chemicals used recently on crops were significantly correlated with house dust samples in nearby homes and urine samples among inhabitants, the findings were noted in both farmworkers and non-farmworkers. The presence of an agricultural worker in the home also increased the pesticide levels from take home exposures. Children living in farms had higher urinary pesticide metabolite levels than children not living on a farm. I asked the State why they were not testing these metabolite levels and they were not testing dust. They do not. They said they do not have the money and they cannot do it. That is what is happening on Kaua'i right now. The summary of this thing says, "Pesticides are a complex group of chemicals with a wide-range of acute and chronic toxicity. Poison control centers report more rates of more severe poisoning, but continue to report similar total numbers of acute exposures among children. There is a growing body of literature that suggests that pesticides may induce chronic health complications in children, including neural developmental behavioral problems, birth defects, asthma, and cancer." They say, "What should we do about it?" Spraying in the community... right to know...

Ms. Fountain-Tanigawa: That was five (5) minutes.

Councilmember Bynum: I will reserve my next five (5) minutes to complete this. Thank you.

Councilmember Chock: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I am going to be voting to receive the Bill. I think we all are concerned about health and Bill No. 2491/Ordinance No. 960 was an attempt to address the issue. From the very start, I have said that we needed to go to Court to first determine a fundamental issue first because I am interested in an effective law and the fundamental issue we have to first address was whether the County was preempted from passing laws such as Ordinance No. 960. With my legal background, I estimated a 60/40 chance that we would be preempted, but I said we could argue until a "kingdom come," and lawyers could argue until a "kingdom come," but we would really not know the answer to that question until we went to Court. The Court ruled in what I found to be a very competent, legal decision that the County is preempted, but the finality of the Court process is not yet done until the appeal is finished. It is likely, more than 60/40 now, that the lower court decision will probably stand, but we should not leave a stone unturned and we need to complete the legal process for the benefit of both sides on this issue. The benefit to both sides is to have it absolutely clear what the law is. Supporters of the seed company think it is already absolutely clear, but you never know until appeal. Cases have been reversed on appeal. There is another significant part of our community that is not yet convinced and completing the judicial process for a small cost is very important. I do not believe that the Council should preempt the legal process, and Bill No. 2562, if passed, would make the appeal moot. Completing the judicial process is very important to the credibility of government. Again, we must show that we have left no stone unturned. On the other hand, those supporting Ordinance No. 960 must be ready to accept the Court of Appeals' decision if it upholds the lower court that Ordinance No. 960 is invalid due to preemption. It is important for the supporters of Ordinance No. 960 to know that the invalidity of Ordinance No. 960 does not mean a dead end to our journey for a healthy Kaua'i. It just means that we have to find another route. We have to be like Patsy Mink. She wanted to be a medical doctor and applied to many medical schools, but was denied entry everywhere. She then applied for law schools and the only way she could be admitted was as a foreign student. She could have been indignant to have been treated that way, but she kept her eye on the goal, bit her tongue, and went to the University of Chicago Law School as a foreign student, even though she lived in Hawai'i. She got her law degree, came home, applied to firms in Hawai'i, and would only be hired as a Legal Secretary, so she opened up her own law office and the rest is history. We must be like Patsy Mink: if blocked by one strategy, we have to find another and recognize that when one door closes, another opens. We can do the Environmental and Public Health Impacts Study (EPHIS) and we can work for a strong State law requiring disclosure or we can do other things as have been done around the State. We cannot give up. That is all. The health is at stake, but there are a lot of things that we have to yet do to find the effective way to address this problem.

(Councilmember Kagawa is noted as present.)

Councilmember Chock: Let me just interject before we move on. I know other people want to speak on this item. I do not want to keep our Staff further than 12:45 p.m. because I want to be back by 1:30 p.m. for our public hearing. Because of this, we will not get through it on time. I am willing to run this until 12:45 p.m., then I am going to cut for lunch. With that being said, would anyone like to speak right now from the Council until then?

Councilmember Rapozo: If Mr. Bynum has five (5) more minutes and no one else wants to speak, we can hear Mr. Bynum and we can take the vote. I will call for the question after Mr. Bynum speaks.

Councilmember Chock: Everyone else wants to talk, so we will not make it. We will go with Councilmember Hooser until 12:45 p.m.

Councilmember Hooser: Thank you, Chair. I will give you a little dose of what we went through earlier. I want to thank all of the people who came out today. I am very proud of our community and all of you for showing up. I am proud of the testimony that each of you gave today. I made some notes as the testimony came forward. Someone mentioned early on the word "lunacy." I cannot remember the context of it, but someone said something about lunacy, but it truly is lunacy that we have to be here today. It is crazy that we are here trying to protect the health, welfare, and environment of our community and we are here one year and a half (1.5) to two (2) years later, still trying to ask for disclosure and buffer zones. There is something wrong with the world that we live in that we still have to do that. These companies, who are so-called "good neighbors" did not even bother to submit any testimony whatsoever in support or they must feel so confident about their position that they do not even have to show up. That is lunacy. It is lunacy to think that this item appeared on our agenda by accident. That is also lunacy. You all have to take time out of your day, and I appreciate it you doing that, and take time off of work, hire babysitters, and rearrange your life to come out here to protect your health and safety and the welfare of your families is beyond comprehension to me. Someone mentioned that these companies were— a lot of people will say inflammatory things and say, "This cannot be true," or you read it on the internet or something. It was mentioned that we are dealing with international polluters— it is true. Anyone who reads history knows that these companies are international polluters. This does not say that employees working for these companies are bad people. These corporations have a very bad history in the world of polluting and killing people. To say that they have murdered people is not untrue. Think about the Bhopal disaster. That corporation has an office here on Kaua'i. The person who is in charge of that operation recently passed away, but was wanted in international courts for murder, and the United States refused to extradite that person. It is not untrue. These are truths. Again, it does not reflect on the people working in the fields or working at these factories, but these are truths about the nature of these corporations and we are here because they are suing us. They are suing us for the right to spray poisons next to our schools and not tell us about it. These same corporations spent eight million dollars (\$8,000,000) to fifteen million dollars (\$15,000,000) statewide to beat the Maui initiative and the grassroots people won on Maui. This is lunacy and it just boggles my mind. We are not done and I am certainly not done, and our community is not done with this. It is crazy and we are entitled to protect our health. It is lunacy that the courts tell us that we do not have the right to protect our community against pesticides. I am confident that we will find a way to do that. As a Council, I am committed to looking for other ways and I am sure some of my Councilmember colleagues are committed to other ways to do it that will be upheld in Court. I am hopeful. It is cautiously optimistic that we will prevail in Court. There is a lot of talk about record keeping. I agree that we need to keep records. We need to hold the Department of Health, the Department of Agriculture, and various agencies accountable. But even if we complain, we cannot get the records. I have been trying to get records from the Department of Agriculture and they will not give them to me. I am trying to get records from ten (10) years ago. "What chemicals were used ten (10) years ago?" They will not give them to me. It is time for the leaders in our community, our government leaders, to recognize that this is a very real issue. This is not

“make-believe.” The people of Kaua‘i have spoken. You are here speaking. The people of Hawai‘i County, Maui, and people all over our State— it is clear that this is a problem that we have to deal with responsibly. Looking the other way and acting like we do not see it is not the answer. Putting measures to save twelve thousand dollars (\$12,000), but two thousand dollars (\$2,000) today, sitting here for five (5) hours, not to mention everybody’s time in here.

Ms. Fountain-Tanigawa: Five (5) minutes.

Councilmember Hooser: Again, I appreciate the people showing up today and appreciate my colleagues who I hope will vote to receive this issue and I look forward to working together with all of them to find ways that could help protect the environment and health of our people, and take responsibility for who we are, rather than say, “It is the Federal government’s and State government’s responsibility.” It is our responsibility. It is nobody else’s and that is why you are here because it is your responsibility. I applaud you for being here. Thank you.

Councilmember Chock: Thank you. We ran out of time and I want to give Councilmember Kagawa and Councilmember Rapozo their time as well and we are going to do that after lunch.

Councilmember Yukimura: I just want to say that after lunch, we have a public hearing and the issue on public transit. Then at 3:00 p.m., we have the schedule. I am thinking that if we can go another ten (10) minutes, we could finish this.

Councilmember Chock: Well, I do not think we will because we have four (4) more members who have not spoken.

Councilmember Yukimura: But 1:30 p.m.? We could come back at 1:40 p.m. or 1:45 p.m. if we have to.

Councilmember Rapozo: I think I have made my comments known earlier in the comments and questioning, so I do not need to speak again. If everyone would give up their extra time, we could get out of here and finish this issue.

Councilmember Chock: I like that. Would you be willing to do that?

Councilmember Bynum: I want to speak five (5) more minutes and I think I have a right and I will just tell you that because you asked the question— look at the public record. We have frequently gone to 1:30 p.m. or 2:00 p.m. when it suited the Chair. (Inaudible), I do not know. I have five (5) more minutes to speak on this and I would like that opportunity.

Councilmember Chock: You can have the five (5) more minutes when we get back.

Councilmember Bynum: That is fine with me.

Councilmember Chock: We have to make a decision sooner or later.

Councilmember Bynum: We can break. That is your call.

Councilmember Chock: We are on a lunch break. There it is.

There being no objections, the meeting recessed at 12:47 p.m.

The meeting reconvened at 1:48 p.m., and proceeded as follows:

(Councilmember Kagawa is noted as not present.)

(Councilmember Rapozo is noted as not present.)

Councilmember Chock: I would like to call to order our Council Meeting from our lunch break. Again, where we left off was with Councilmember Kagawa, followed by Councilmember Rapozo, but since they are not in the room yet, could we find them? I am going to move towards Councilmember Bynum for his second round of discussion. You have the floor.

Councilmember Bynum: Thank you very much. As I was speaking before about the American Academy of Pediatrics, who gave us this warning in the early part of last year, put this paper out. This is medical science, one hundred ninety-five (195) studies that they reviewed and are trying to tell physicians in the public that we have a serious problem here right now, today, and this is what we need. Where I left off was talking about chronic health effects. Part of this concern is a growing body of evidence that chronic, low-level exposure that the EPA might say, "This is a safe level," is causing problems. What does a pediatrician say? "The health implications of non-acute, relatively low, but often repetitive combined exposures encountered routinely by children are an ongoing focus of concern and inquiry for scientists, regulators, and parents." They go on to give you the dozens of studies that illustrate this concern. You have to remember where this is in a context where many chemicals that we know now are devastating and have devastating health effects were once considered safe at some level. So we know we have this history. We have crop scientists from Dow telling us that this stuff is okay, but remember, we are not on a farm in Iowa. We are here in this research thing where these pesticides are being sprayed frequently. They are concerned about farms where people have eight (8) or ten (10) potential exposures a year with a pound of chemicals or maybe a pound and a half being sprayed nearby. Here on Kaua'i, we know that we are talking about exposures of four (4) to six (6) times a week, week in and week out, and quantities of eight (8) to ten (10) pounds or more. What do the pediatricians say about this? This is the section I am reading: "Spraying in the Community, 'Right to Know': Although there is no federal mandate for notification of pesticide use in communities, many states, locales, and schools have implemented requirements for posting warning signs or developing registers to alert individuals of planned pesticide applications. See Table 3." There is a whole table of where you can get these. "These are designed to allow the public to make decisions to avoid exposures during application or soon after from residues. Other local policies that have been developed include restricting spray zones and creating buffers from schools or other areas or restricted specific types of pesticide products in schools. Pediatricians can play a role in the promotion and development of modest programs and practices in the communities and in schools and of their parents. For example, in some communities, pediatricians have participated in local organizations that have successfully advocated for no pesticide application in school." As Dr. Evslin told us, the marching orders for pediatricians are "get this information." Ordinance No. 960 had a provision that was written by JoAnn and Nadine that would have required the companies to tell physicians when they have an acute exposure, what chemicals that they are dealing with. We lost that and we are trying to get it back on appeal. Speaking of appeals, David Minkin is our Lead Attorney from McCorriston. He has worked for the County many times and he has

a track record of winning for the County of Kaua'i on appeal. The Kaua'i Springs that case that just happened that furthered water rights in our community and in our State and brought more clarity was won on appeal on behalf of the Kaua'i County. He has also won previously on appeal. It is not uncommon for the first level of Courts to happen. We are going to be involved in this appeal process even if this Bill is overturned, right? Interveners have intervened. The County of Kaua'i wrote the Bill. We are still going to have attorneys involved representing us. Are they getting representatives saying, "Gee, can we preserve our right to do what dozens of other communities in other states have already done to put in buffer zones, ask for disclosure, and do these things?" This is serious stuff, Kaua'i. This is about a clear and present danger to our communities right now. It is already demonstrated if you just live at a regular farm community, but we are not a regular farm community. There are not products being produced here. How did we find this out? In Court. The Federal Court said, "You have to give this information for these people, one hundred fifty (150) citizens, that are asking us to protect them." Well, I am proud of my efforts to protect them and those efforts will continue. To let go of this appeal and to overturn this Bill, which probably the new Council will do in a few weeks— anyway, it just does not make any sense. The Garden Island opined and said, "No, under these circumstances, we should move forward." We have a history of winning. I have said all I can say today. Thank you.

Councilmember Chock: I guess I will speak now since we are still waiting for two (2) more people to show up. I will be quick. Nothing has really changed for me here. It comes down to the same arguments and the same need for us to go as far as we can. We have not only our Special Counsel, who has given us direction— we voted on it, the appeal is in process, and some of that money has already been spent. We have already paid for this service, so let us get as far we can to get as clear as we can. In the meantime, what I would like to say is that we still need to continue to mobilize in coming up with solutions. Someone spoke to it earlier, "What about the solutions?" I wholeheartedly agree. We can talk about this and we can allow this process to continue. That is where it stays and that is where it should go. But we, as a community, need to come up with how we are going to get this testing done. We need to come up with a plan once this appeal is gets to a certain place because the truth is that it could cost us more money in the long run. How are we going to respond to that when the time is necessary? We need to think about that now and answer the questions to that now. We need you folks to help us do that. You have heard a lot of the talk in the last few months about where we are economically. That is why we need your help. With that, my vote is going to be to receive today. I will give time to Councilmember Kagawa.

(Councilmember Kagawa is noted as present.)

Councilmember Chock: You are good? Okay. Would anybody like to speak on this? If not, may I have a roll call vote?

The motion to receive Proposed Draft Bill (No. 2562) for the record was then put, and carried by the following vote:

FOR RECEIPT:	Bynum, Chock, Hooser, Rapozo,	
	Yukimura	TOTAL – 5*
AGAINST RECEIPT:	Kagawa	TOTAL – 1,
EXCUSED & NOT VOTING:	Furfaro	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Rapozo was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)*

Councilmember Chock: The motion passes. Thank you all for testifying today. We are going to move to our next item. I think what we have on the agenda is to move towards our transportation resolution. Is that correct? I would like to hand the floor over to Councilmember Yukimura after it is read.

RESOLUTION:

Resolution No. 2014-46 – RESOLUTION REQUESTING THE LEGISLATURE OF THE STATE OF HAWAII TO AMEND HAWAII REVISED STATUTES CHAPTER 46 TO GIVE THE COUNTIES THE AUTHORITY TO ENACT A GENERAL EXCISE TAX SURCHARGE TO FUND PUBLIC TRANSPORTATION

Councilmember Kagawa moved to receive Resolution No. 2014-46 for the record.

Councilmember Chock: The motion to receive lacked a second.

Councilmember Yukimura: Yes. The opposing motion would be to approve and I will do that in a minute. I want to say that my intention is to hear... there are people here who want to speak to this, so I would like to have them testify and I will be asking for a deferral to the December 17, 2014 Council Meeting because I believe the Administration is looking at this proposal and may have some position then. We will also have a new Council, which probably should be the body that supports it. It looks like there is some conversation that needs to happen before I make any motion.

Councilmember Chock: Thank you. I just wanted to verify that the motion to receive... I did not get a second...

Councilmember Yukimura: It died for the lack of a second.

Councilmember Chock: If there is no second, then I am going to ask for a motion to approve. Hold on. Councilmember Bynum has his hand up.

Councilmember Bynum: Given Councilmember Yukimura's statement, I could second any motion for discussion purposes, either to approve or to receive.

Councilmember Chock: Let me get a motion to approve then.

Councilmember Yukimura moved for adoption of Resolution No. 2014-46, seconded by Councilmember Bynum.

Councilmember Chock: Thank you. Councilmember Yukimura, you have the floor.

Councilmember Yukimura: Thank you. I proposed this Resolution and I actually have a brief PowerPoint, which I was not sure I was going to do, but I will do it very quickly, just to give us the context of this Resolution. We are talking about the Kaua'i Bus and the matter before us is expansion of the bus. The

ridership in the bus has doubled over the last five (5) years, so there is tremendous need for the bus. We have seen that when we add services, there is increased ridership such as when we increased the length of time from 6:00 to 10:00 at night, when the buses ran until 10:00 at night and on holidays. We saw a huge increase in ridership because it was useful to people then. They could not go to work, and then not know how to come back home. I want to cover why it is urgent that we expand the bus and why we need a sustained source of funding in order to do it. I am going to cover three (3) points. The bus provides reliability, affordable transportation option that is a necessity to people. It will lessen traffic congestion and build a sustainable land transportation system for the future and it help meet urgent community priorities. First, it provides reliable, affordable transportation on a daily basis for seniors and we have the largest percentage of seniors of all Counties and it is expected to expand in percentage. Students: many students both young and older students; disabled; workers; even visitors; and families who are trying to make ends meet. A good land transportation system empowers people. It enables them in their daily lives to do the things that they need to do and enables families to save money. It really lowers the cost of living when you can save two thousand five hundred dollars (\$2,500) a year. It also empowers the economy. It gets people to their jobs and for employers it gets their employees to work. I met a homeless young man in Waimea who is living in Lucy Wright Park. His mother died when he was sixteen (16) years old. He was working at McDonalds and he got to work by the bus, and McDonalds allowed him to come fifteen (15) minutes late because the bus schedule did not work otherwise. But that was the only way he got to work. It keeps goods and people moving. You remember when we have traffic jams and tourists cannot get to the airport and business people cannot do their work. If we did not have a good transportation system, it is a terrible thing.

The second purpose is that it lessens traffic congestion and creates a more functional, multimodal transportation system. Traffic congestion costs time, money, piece of mind, and goodwill for business residents and visitors. It is very costly. Forty (40) people in a bus takes forty (40) cars off the road, and the more people we get into the bus, the less congestion we will have. Expanding Kaua'i Bus expands the capacity of existing roads without widening them because at eighty million dollars (\$80,000,000) to expand the highway system between Lihue Town and Kaua'i Community College (KCC), building more roads alone will not solve our problem. We have heard that the most we can expect to get from Federal government over the next, I think, ten (10) years or maybe twenty (20) years is six hundred million dollars (\$600,000,000) and that alone will not pay for the Kapa'a-Wailua bypass. Around the Country, planners and government leaders are recognizing the role that public transportation has in the system of the future.

Finally, it will meet urgent community priorities, such as moving us towards energy self-sufficiency. I did not get to incorporate this in the PowerPoint, but this is the State of Hawai'i Energy Report Card 2014, put out by the Blue Planet Foundation. Transportation— what does Hawai'i have? It has a "D" for this year— Oh, sorry, "D-" down from last year's "D," and that is because our vehicle miles traveled, which is a measure of cars on the road is growing and not declining as it is in most places around the Country. Energy self-sufficiency— When we do not pay for outside energy, it keeps more money circulating on Kaua'i. It will reduce Kaua'i's contribution to climate change. It prepares us for disaster. The 'Iniki Express was asked for by people when their cars were damaged. When they had to get to Federal Emergency Management Agency (FEMA) offices, they said we need public transportation. In 1973, when there was a gas embargo and we had lines – you could not go to fill up gas every day. You had to do odd and even days, which some of you are old enough to remember that. We often free bus service for some

reason in the County. It moves us to prosperity. Businessmen and women around the Country are supporting public transportation because they know it is essential for a good economy and most of all, it reduces the cost of living and helps those in need.

The Kaua'i Multimodal Transportation Plan provides a blue print for expanding Kaua'i Bus services. We are so lucky to have it and it is a very well-done plan, but without funding it will be just another plan on the shelf. With funding, it can become a reality. It projects one thousand percent (1,000%) increase and, in fact, the plan is designed to have one thousand percent (1,000%) increase in bus ridership, which will take cars off the roads, bus every fifteen (15) minutes on major routes, smart car Wi-Fi on buses, more stops, and more accessibility, shelters at almost all stops, and we have to look at taking luggage, surfboards, coolers, and groceries to make it user-friendly.

Why the Excise Tax surcharge earmark? One is because it is already being done in the City and County of Honolulu for the light rail project. There is a precedence already set. It will tax visitors, as well as residents. Right now, half of the money for the bus comes from the Real Property Tax payers on this island. Visitors are not paying anything. We are now trying to develop a shuttle system in Po'ipū, Kōloa, and Princeville that is mainly for visitors, though it will be for both residents and visitors. That is an expense that is necessitated by visitors. They should pay for some of the public transportation system. It will generate a sustained stream of revenues. The County will have complete control. I looked into the Barrel Tax and spoke with Representative, now Public Utilities Commission (PUC) Chair Morita, who introduced the Barrel Tax in the Legislature. That is a declining fund and it would be subject to the Legislature every year. While regressive, its benefits will accrue to the group that is hardest hit. It will be terrible to use the Excise Tax for general purposes when it will hit those who need the bus most of all. It is not only a tax. It is really important that we look at it as an important investment in the future. That is it. Thank you. Now, if we could take testimony, Vice Chair. I will let you run that portion.

(Councilmember Rapozo was noted as present.)

Councilmember Chock: Thank you for the presentation. What I would like to do at this time is suspend the rules for public testimony. Would you like to come up? Do we have anyone scheduled?

Ms. Fountain-Tanigawa: We have two (2) registered speakers. The first registered speaker is Pat Gegen, followed by Charleen Andrade.

There being no objections, the rules were suspended.

PAT GEGEN: *Aloha.* Good afternoon, Council. For the record, my name is Pat Gegen. This Resolution is bittersweet to me because being a life-long democrat, I definitely believe in the local government providing services that help improve the lives of our community members and help those who may be disadvantaged in some way, to live a good life. At the same point in time, I share the concerns that Councilmember Yukimura addressed at the end, it being a regressive tax. I do have to concur with her with expanding the bus service. I do believe it is something that we need to continue looking at and optimizing as best as we can and finding the right balance of what is the right amount of bus service versus the cost that we are paying, but I do also agree with Councilmember Yukimura when she says that the State Land Transportation Plan for the island of

Kaua'i will not make any major improvements. I was on the community advisory committee for that and with the amount of money that they are going to be able to spend, we are not going to be able to do the things that we would love to do to be able to move people easily around the island. Bus service is important. First of all, I would say to get rid of a regressive tax; no General Excise (GE) Tax, if there was some other way to fund it. But given that, if the Hawai'i State Association of Counties (HSAC) is planning on moving forward with allowing the Counties the right to have an Excise Tax, I would say, "Yes, please earmark it towards those who are going to feel the effects most likely from the Excise Tax, which would be those people who have less income than others. So whatever can be done in that manner, I would agree with. Thank you.

Councilmember Chock: Thank you. I have a question and I hate to put you on the spot, but do you have any ideas about where you would find the money if it is not the GE tax? Where would you suggest?

Mr. Gegen: Well, some of the things I would say is to look at the rental cars. Obviously, that is one of the reasons that we have so much congestion. One (1) in every four (4) or five (5) cars out there is from a visitor. They can help fund some of it. I have my three quarter ton truck and also a small car. Why? I do not like paying for any more gas than I have to, but gas prices are going down right now, a few pennies for gallon. It would not be that noticeable to people, but we are down almost seventy-five cents (\$0.75) from where we were before. When you take a look at that, a few pennies over a four dollar (\$4) or five dollar (\$5) gallon of gas is really a minimal increase. That more associates with those who would receive the benefits. If I decide to drive my car and buy the gas, then guess what? I have less traffic to deal with because there will be busses out there providing more services, hopefully.

Councilmember Chock: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Pat, do you know how much the tax on rental cars will generate?

Mr. Gegen: No. I have not looked into that. If the statistics are true, there are like one (1) in every five (5) cars out on the roads is a tourist. It would not take a whole lot to make a fair amount of money on a daily basis. But I have not looked at that.

Councilmember Yukimura: Thank you.

Councilmember Chock: Thank you for your testimony.

Mr. Gegen: Thank you.

Councilmember Chock: Next speaker, please.

Ms. Fountain-Tanigawa: The next speaker is Charleen Andrade.

CHARLEEN ANDRADE: I am Charleen Andrade. Everybody knows me as "Charly." I have been riding the bus now for about one (1) year. It is going to be the second year this year. I see a lot of problems and we need more bus services for the handicapped. When 4:30 comes, we cannot go anywhere. I stay home as a disabled person wondering, "I cannot even have dinner and go on the bus to go there because there is no services after 4:30 for the para." We do not have

enough busses or people and that is what makes me angry because on weekends, too, I have to stay home. I am not dead yet. I am sixty-eight (68). I want to do things for myself and be independent and self-sufficient. I do not want to depend on other people by saying, "Can you take me here and there?" It is not right. I have a life of my own. Why should I bother somebody's space? That is why I rely on the bus. It is hard. When I have to take my service dogs, I have to make sure that they are accountable, too. They are there in a carriage that I can take to the park or whatever, but that is hard to do because there is no bus service. Number one, I find out also that the dispatchers are new and some do not know what is going on and make mistakes. That needs to be corrected with a supervisor there to make sure everything runs right, especially for the para. The bus drivers are awesome—that I can guarantee you. They are so likeable. They go out of their way to go outside, hold my hand, and take me out of the bus if I need help because I am a "level 3." The bus drivers—you do not have any problems. They are so kind and so awesome. I even help them with the roads with Raymond McCormick. Remember when Macy's had all of the blocks? I took that away. I called Mr. Raymond McCormick and said that the bus does not need all of that stuff. They needed to turn by Macy's and go straight to Nāwiliwili. I did that one (1) month ago for the bus drivers and I want to do more for the bus drivers because I see that they really need help. Another thing on the bus is that the people do not know that the bus drivers do not give change and it should be said on the paper that bus drivers are not allowed to give change. Somebody will give five dollars (\$5) and they still have to put in their five dollars (\$5) because the bus driver says there is no money.

Ms. Fountain-Tanigawa: Three (3) minutes.

Councilmember Chock: Thank you. We have a question from Councilmember Kagawa, followed by Councilmember Bynum.

Councilmember Kagawa: Thank you for your testimony, Charleen. I think you provided a lot of insight for a bus rider on some of the issues. You ride the paratransit bus or the regular bus?

Ms. Andrade: See what happens is that they put me on the paratransit and come to my house, and then after that, I am on the same bus. I ride the public bus shuttle to get to the Courthouse, so I am still on the bus, but when they go to Kukui Grove, they change it to Bus 70.

Councilmember Kagawa: You do not have to answer if you do not want to answer.

Ms. Andrade: I answer anything.

Councilmember Kagawa: Where does the bus pick you up at?

Ms. Andrade: At my home.

Councilmember Kagawa: In?

Ms. Andrade: In Puhi.

Councilmember Kagawa: Okay. You said on the weekends, it is difficult for you to get that paratransit ride.

Ms. Andrade: There is only one (1) bus for each side.

Councilmember Kagawa: One (1) paratransit bus for each side?

Ms. Andrade: Yes.

Councilmember Kagawa: So it is difficult to get a ride basically?

Ms. Andrade: Yes. You cannot go anywhere unless they have somebody else going to the same way.

Councilmember Kagawa: In the area?

Ms. Andrade: Yes.

Councilmember Kagawa: Okay. Thank you.

Councilmember Chock: Councilmember Bynum, do you have a question?

Councilmember Bynum: Yes.

Councilmember Chock: Okay.

Councilmember Bynum: Hi, Charly. So you are really talking about a couple of different things, right? You want to see the bus expanded and the drivers are generally great, which we love to hear that. But you are also saying that you having difficulties with paratransit.

Ms. Andrade: Yes. The dispatchers do not have... I have to wait. Like right now, I have to wait to tomorrow if I made an arrangement to go to Shell, I have to wait two (2) hours there before they can pick me up at 3:00. I do not want to wait at Shell Service Station for two (2) hours if I pay a bill in five (5) minutes, but that is the situation.

Councilmember Bynum: Charly, you are aware that I made some inquiries on your behalf regarding the paratransit, right?

Ms. Andrade: Yes.

Councilmember Bynum: I just wanted to let you know that I will be following up on that.

Ms. Andrade: Okay. Thank you.

Councilmember Chock: Next speaker, please.

Ms. Fountain-Tanigawa: The next speaker is Carol Ann Davis.

CAROL ANN DAVIS: I have a letter for all of you, but before I start, I want to bring up something that is near and dear to me. My late husband Walter Bryant had a transportation plan for this island. It started when he was manager of the Department of Water. He always wanted a good bus system on this island. I think he talked to JoAnn about it, and she probably remembers it a lot better than I do, but he wanted a really good transportation bus system for this island. He wanted golf carts for people to drive to the... he wanted to get as many

cars off the roads on Kaua'i as he possibly could, so that we would not have something like we have happening— it took me fifteen (15) minutes by the way to get from Kukui Grove to this building today because of the construction problems. He had a vision for Kaua'i for a transportation system that included a really good bus system subsidized by the County. Before I start my letter, I wanted to mention that. I am writing this letter in support of an expanded bus service with more frequent buses to the major populations in the areas of Kaua'i. The other day, my car was in Līhu'e being repaired and I had trouble getting into town to pick it up. My daughter was busy and I could not find anybody to give me a ride and would I have ridden the bus at that point when it was available to get to Līhu'e. I would ride the bus if it were more frequent and convenient. I grew up in Honolulu. I lived on the top of Maunalani Circle, above Wilhelmina Rise, the very highest house on the hill. We had bus service every fifteen (15) minutes up there on Wilhelmina Rise. I attended Punahou School for thirteen (13) years and rode the bus from fourth grade until tenth grade when my parents finally bought me a car. Our bus service in Honolulu was wonderful. It was subsidized through taxes collected by the City and County of Honolulu. The Honolulu Rapid Transit and Land Company or the HRT successfully operated the bus and streetcars, or "trolleys" as my father used to call them when he was growing up since 1901, I believe. The Honolulu Rapid Bus System, called "The Bus" now, is now the twentieth most utilized transit bus system in the whole United States. It is a really good bus system. Kaua'i's bus system needs upgrading so that it is useful for people who live on Kaua'i. The busses are too infrequent and do not work at all in the evening. I live in Po'ipū. We have many people who work in the visitor industry in my neighborhood. Riding the bus is difficult to impossible. There is no direct route to Līhu'e from Po'ipū. You have to go to Kalāheo first. You might consider having the schools use the bus service instead of providing the school bus service. That is another option. That is money from the school busses that could go into the regular bus system. It works in Honolulu. Why could it not work here?

Councilmember Chock: Carol, that is your three (3) minutes. Do you a lot more to offer?

Ms. Davis: No, I only have one (1) paragraph.

Councilmember Chock: Okay. You may continue.

Ms. Davis: Okay. There are workers' cars parked all along Po'ipū Beach every day. It is very hard to walk on Po'ipū Road, mainly because people have to drive their cars to work at Po'ipū. I think if they could ride the bus, it would be a lot better. I would like to see an expanded bus service and an increase in Excise Tax. It is a small increase and I do not think it would hurt people that much. I think we would all benefit. Thank you.

Councilmember Chock: We have a question from Councilmember Yukimura.

Councilmember Yukimura: Carol, thank you so much for your testimony. Po'ipū is a key problem area in terms of both parking and access by the bus. You mentioned in talking to me earlier that there are young adults who are looking for jobs. Based on your personal experience of real people, could you explain how the bus system could provide access to work?

Ms. Davis: You have a handwritten letter there that is from my good friend Lori (inaudible)'s grandson. He sleeps on her couch in the

living room. He cannot afford a car. He got in trouble for driving without a license and ended up in big trouble because he did not have a license and could not afford insurance, so he does not drive a car. He needs to get to work. Right now, I am paying him to paint my house twelve dollars (\$12) an hour and he gets a ride with his grandmother, but there is one (1) car for the whole household and there are three (3) generations of people living there. He would be able to get a job somewhere if he could ride the bus. He works in the visitor industry at night at one point and there is no bus service to and from the hotels or anywhere else to get to work. There is a lot of young people in our community that cannot afford a car, cannot afford insurance, and have to have some sort of bus service to get to work. It is going to improve all of our lives if we can possibly get a bus service that works for our young people in our community. They are all going to be better off. Anyhow, that is one instance. I gave you a handwritten letter written by this young man who is desperate for some kind of transportation.

Councilmember Chock: Thank you for sharing your testimony.

Ms. Davis: Thank you.

Councilmember Chock: I think we have one (1) more speaker.

Ms. Fountain-Tanigawa: The last registered speaker is Catherine de Silva.

CATHERINE DE SILVA: *Aloha* everyone. Like Charleen said, Kaua'i Bus has the best bus service I have ever seen with drivers. They are excellent. They go out of their way to help people. With that said, I just want to highlight the most that I feel is very important is for the people coming from all walks of life to see Kaua'i, to make it convenient for them with the buses. I observe a lot of the tourists going grocery shopping at the mall, so it would be nice if there would be more busses available in the Kalapakī area. Also, a lot of young generations come from all walks of life to work at the farms. They have to hitchhike back three (3) miles to get to where they need to go. It would be wonderful if they put a stop there, also for 'Anini. Many, many people come from everywhere, so it would be nice if a bus stop would be across from the airport for accessibility for them. That is pretty much it. Everything else is wonderful. Thank you.

Councilmember Chock: Thank you. Do we have anyone else scheduled to speak? Please come up.

RAYMOND CATANIA: My name is Raymond Catania. I live in Puhi and I am retired. I have been riding the bus for quite a long time already before I was sixty (60). Right now, I am sixty-four (64), but I am on the paratransit a lot. I rode the paratransit from when I was sixty (60) until I was sixty-two (62) when I could retire. I use the bus a lot. I still use it. The thing that concerns me is that... I live in Puhi and there is a lot of working people that work in the hotels. Somehow, something has to be developed where if we could work with the management and work it out where the workers could catch the bus to go to work instead of driving. It would save them a lot of money and get cars off the road. I would like my wife to catch the bus, so I do not have to share a car with her. The thing is that the bus service is really good, but I agree with JoAnn that somehow we have to get some kind of a funding. I would like to raise the Excise Tax a little bit, but I do not know by how much. I think the tourists should be able to pay too because they use the bus system a lot. We need to somehow incorporate a system where like the hotels can sit down with the County and figure something out on their scheduling, so we

can move the hotel workers, especially the ones that live in the Līhu'e area like the Marriott. Also, in my community, there are a lot of State and County workers as well. Something has to be worked out. Like in Puhi where I live, the closest bus stop is either to the mall or on the highway, across from the college. From my house to the bus stop across the college is about one (1) mile and to the mall is one and a half (1.5) miles, so I do not mind walking it because my stomach needs to come down, but the thing is that there is no real bus stop for the working people and elderly. Something has to be done. I know that they have inaugurated some sites for the covered shelters. That is good. That is a real good development, but I think the County really has to work with some of the major employers to bring the workers to work. Something has to be done. That is all I have to say. Otherwise, it is a good system.

Councilmember Chock: You have a question from Councilmember Kagawa.

Councilmember Kagawa: Thank you for your testimony, Ray. Do you ride the paratransit bus from Puhi?

Mr. Catania: Yes, I ride the paratransit bus. It comes to my house, picks me up, and takes me fishing if I want to go fishing.

Councilmember Kagawa: Does that bus drive on Puhi Road?

Mr. Catania: I live in Kole Place, and then it comes down to where Chiefess Kamakahalei Middle School is in front, and then it goes down some of the side streets like Kapu, turns onto Hanalima, and it comes to my place. It follows that same route to get me back to where I am going. Sometimes it goes up to the road in front of Kaua'i Freight and goes straight up to the college.

Councilmember Kagawa: That would be Puhi Road, right?

Mr. Catania: Yes.

Councilmember Kagawa: Did any tires ever fly off going up Puhi Road?

Mr. Catania: From the bus? No, not yet.

Councilmember Kagawa: That road is pretty bad.

Mr. Catania: Yes, that road has to be fixed somehow. There are so many potholes.

Councilmember Kagawa: I was just thinking that road is so bad that I can imagine the bumps on that.

Mr. Catania: It is. That is why I do not like walking on the side of the road over there because it is so bumpy and hard to walk on. Also, I do not want to blame the businesses and stuff, but those big trucks do create potholes in the long run.

Councilmember Kagawa: Thank you.

Councilmember Chock: Would anyone else like to testify on this item?

Councilmember Yukimura: Chair, there is testimony from Donna Schultz. It was circulated, but she did ask me to read it out loud and it is one (1) paragraph, so since we are taking testimony, may I read it?

Councilmember Chock: Yes.

Councilmember Yukimura: This is from Donna Schultz: "I am writing in support of Resolution No. 2014-46 pertaining to the possible Resolution that will give money needed for bus expansion in a good way. I am Donna Schultz. I am ninety (90) years old and the bus transportation is the most important thing in my life as I have no car. I used the paratransit each Thursday to do my weekly shopping and I use the city bus when I need to go to meetings close by. It is very good at all times. The drivers help me and are very wonderful." This is from Donna Schultz in Kīlauea, Hawai'i.

Councilmember Chock: Okay. Thank you.

Councilmember Yukimura: I also want to point out that Jennie Ahn—did we circulate that? Yes, okay. Jennie is a professional who commuted from Līhu'e to the Veteran's Hospital for work and she shared her experience of that. I also want to point out that Pacific Resource Partnership, which represents the construction industry is also in support of this.

Councilmember Chock: Thank you. I am about to close testimony on the transportation issue. I just wanted to make sure that everyone else had a chance to speak. We will call the meeting back to order. I know that we have an interest in continuing to do work on this with the Administration for a later date, so I will ask that we entertain what that motion might be.

Councilmember Yukimura: Okay, as long as there is no more discussion because a motion to defer does not allow discussion. Perhaps we should do that first.

Councilmember Chock: Okay. I will go to Councilmember Bynum first.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Bynum: I will not take a long time on this. I will just say that JoAnn's presentation about the need for the bus and the desires for the bus and essential, critical aspects that the bus plays for this community; I agree one hundred ten percent (110%). I do not agree in using GE tax, as a very regressive tax, to fund County services in any way, shape or form. The truth is that most of our money comes from property taxes. We get GE and we get vehicle weight taxes, but the General Fund is the leveler. If we get more Solid Waste funds, great, but the General Fund still has to play a role in this. Whether the money comes here or there, it is all about priorities. A very wise politician once said to me, "When a politician tells you there is no money, what they are saying is it is not my priority," because there is always money. It is just how we divide it up. Are there other funding sources for the bus? Absolutely. We need to realign our property tax system to make more sense like it does on other islands. For years, we have undertaxed business and resorts. This is not an opinion. You can look at the public records from all of the Counties. We had the lowest rates forever. When the

economic downturn came, we have been hearing a lot of talk about us being broke. We are broke because the revenue went away, not because we spent it all. This is public record, but the Mayor spent less during the downturn for a couple of years, which is hard to do in government. The revenues fell dramatically from business. That is why we are in this hole. It is a revenue issue. We have to have the courage to tax the folks who deserve to pay their fair share. There are other sources for the bus. We added one million dollars (\$1,000,000) to get nights and weekends because we had to. We have to meet the people's needs to address this issue. Now, that is institutionalized into our budget, right? We will make the next expansion and we will have to pay for it, but there are many mechanisms to pay for it. GE is the one that hurts low-income people and the working class people. Thank you and this is the last that I will ever speak on this most likely.

Councilmember Chock: I have a question because you mentioned that there are other sources. Because I asked Pat Gegen, could you identify what those sources would be?

Councilmember Bynum: Well, I tried to say that, but if we are going look for extraordinary different taxing, there are other places we can look other than GE and ask the State for a taxing ability. I am talking about our normal— if we increase the vehicle weight tax, great; that will help you pay for this. In the long run, it is all leveling. We need to look at our primary source and I have been advocating since 2008 that we increase taxes for hotels and resorts, time-shares, and business classes, not dramatically, because we let them fall dramatically. Let them pay their fair share. You can look at any measure you want statewide, I believe, and you will see that Kaua'i has historically under-collected from these sources. Bryan Baptiste said, "Do this adjustment in 2008." We did not do it then, we have not done it since, and it still needs to be done. We are going too much on residents and local resident homeowners and not enough on the people who use Kaua'i to do very large business practices. Thank you.

Councilmember Chock: Thank you. Councilmember Yukimura.

Councilmember Yukimura: I just want to respond in part to Councilmember Bynum's dialogue. It is really easy to say that "we have to support the bus" or "I support the bus," and I know he does, but at the last budget I could not even get sixty thousand dollars (\$60,000) for a Project Manager position to address some of these issues that the public has raised like a better shuttle system, how we would accelerate our bus shelters, and all of that. We need eighteen million dollars (\$18,000,000) in our reserve and we have less than ten million dollars (\$10,000,000), now maybe five million dollars (\$5,000,000). We are starting next year's budget with an eight million dollar (\$8,000,000) deficit. We are told in our last budget that we need one hundred million dollars (\$100,000,000) to fix roads like Puhi Road and bring all of our roads up to preventive maintenance standards. Where will this money come from to expand the bus system is my question? That is why I have suggested an Excise Tax surcharge. As was pointed out by Mr. Gegen, Hawai'i State Association of Counties has been considering and the Mayors were also talking about an Excise Tax that would be used for anything and everything. This is a regressive tax that will be used then to pay for visitor impacts, collective bargaining, and for all kinds of other things, and not to really have targeted benefits for the people that it will hit the hardest. If we are going to talk about a half percent (0.5%) excise tax, which is already being talked about, let us talk about it in terms of earmarking it for public transportation, which will not only service our working families, but will service everybody into the future.

Councilmember Chock: Thank you. Councilmember Rapozo.

Councilmember Rapozo: Thank you. I think we had the discussions on this at the last meeting as well, and the deferral was to defer to take action this week, so I am hoping that we can take action. I guess I cannot support— I think that the people have to understand that this proposal will pump eight million dollars (\$8,000,000) a year into the Transportation Department. From the discussion that we had with the Transportation Director at the last meeting— number one, she is not ready for eight million dollars (\$8,000,000) a year to expand the bus service. She is not. I think there are a lot of issues that have surfaced to me, anyway, over the last three (3) months from the employees that are very concerned about the management of that department. Eight million dollars (\$8,000,000) over ten (10) years; that is eighty million dollars (\$80,000,000). Councilmember Yukimura is correct that HSAC did support the use of General Excise tax funds for the Counties, but not for anything. Whatever the funds would be used would have to be approved by the Councils. The Council would have to approve the use of those funds. If we get a hurricane or if we have a crisis that we have to tap into a fund, if we lock this down to transportation money and funneling eight million dollars (\$8,000,000) to transportation and they cannot use it— maybe Councilmember Yukimura knows how to use it, but our current Transportation Director is not ready and she has been on record to say that she is not ready to expand at that level. I cannot see just funneling money because we all agree that we want a great bus system on Kaua'i, but you have to be ready to accept that and have a plan in place before we provide you with eight million dollars (\$8,000,000). That is a lot of money. If eight million dollars (\$8,000,000) was provided into the General Fund this past year, we would not have to raise your taxes, so I think it is important that that money is available for all sources. If the Council determines that those funds need to be used for transportation at a time when the Transportation Department comes in with a plan, "how we are going to use this moneys efficiently and effectively to expand the bus service," the Council can agree. But to just to say that we want to divert eight million dollars (\$8,000,000) a year to transportation because we all believe that we have to expand the bus system— I do not think that is responsible unless we know what those funds are going to be used for. I agree that we really have to improve paratransit. For a long time, I have been advocating doing away with paratransit as you know it and have you call a cab; contract with a cab company that has a Handi Van that can come pick you up. We are running a big bus on the road for paratransit. Why would we not contract like many other jurisdictions and just have a company that can run the paratransit for eight dollars (\$8) to ten dollars (\$10) a route, versus the extraordinary costs to run a bus when you are looking at the salary and the maintenance of the bus and the time that bus is out of service. There are a lot of ideas that I have, that I want to have that opportunity to discuss with the Transportation Department to make sure that they are prepared and ready to expand the bus service. They are not at that stage right now. I cannot support this today and I am hoping that we take the vote today, Mr. Chair. We have had already had the discussion and I am not sure... I do not see anyone from the Administration here at all. Maybe we can call someone from the Administration to come over because this is the first that I heard that we are working with the Administration.

Councilmember Chock: I have to call for a tape change and caption break now, but we will come back to this. I know more members want to speak on this.

There being no objections, the meeting was recessed at 2:41 p.m.

The meeting reconvened at 2:52 p.m., and proceeded as follows:

(Council Chair Furfaro is noted as present.)

Councilmember Chock: Thank you very much. We are back from our caption break and tape change. We were in discussion. I will Councilmember Kagawa the floor.

Councilmember Kagawa: Thank you, Chair. I am not ready to support a GE tax increase at this time, even for an important function such as the bus. My reason is that what we are really fighting for right now, the big fight in front of us, is whether we can increase our share of the Transient Accommodations Tax (TAT) with the State. It was brought up before and it makes sense that if we propose raising the GE tax, our State Representatives, the Kaua'i Delegation, will take out even the possibility of getting the ten million dollars (\$10,000,000) that we are missing every year. They will say, "Well, they want to raise the GE tax, then that is eight million dollars (\$8,000,000) of the ten million dollars (\$10,000,000) that they are asking for." What we want is the TAT back, like it used to be about four (4) years ago. That has really put us in a big budget crunch. So I think it is premature until we know for sure what the plan is of the State Legislature regarding the TAT. I think we are "putting the horse before the carriage." I really want to go after the TAT one hundred percent (100%) and if we do not get it, as we have not got it in the past four (4) years, then let us see other options. My other reasoning at this point is that I believe that there are some management issues. I have put in the request to the Mayor's Office to give me some answers on some of the management issues that I brought up to them and I am awaiting their response. The crux of the matter is that we lost a very good manager a few years back, Jeanine Rapozo, who is sitting back there and in that past six (6) months, we also lost Kaleo Carvalho. They both had years and years of running a very complex system, probably one of the most complex systems in the County function, as far as management because the supply and demand is ever changing. What we need to do is maximize efficient, yet meet the needs of those that need to get there for critical functions such as work, hospital, shopping, and what have you. I think it is very complex. What we need to do is address what the true needs are out there before we just throw money at it and expand routes and services just because we have a huge chunk of money. When times are tough, you have to do more with less. I do not see us doing more with less right now. I think we can do more with what we have. I do not know if management needs more assistance or consulting. I see some nodding out there. Like Charleen said, we have excellent bus drivers that really are good with our riders. People like Tommy Rita, my ex-football coach, rides it religiously wherever he goes and he said he is really pleased with the bus and what it offers, and you attested to that as well. Again, we definitely need to improve our system, but to approve the GE tax today, I think, is premature. Thank you.

Councilmember Chock: Councilmember Yukimura.

Councilmember Yukimura: I just wanted to say that Councilmember Rapozo made some assumptions that are not accurate, in that the plan is not to have eight million dollars (\$8,000,000) extra in a year, but in fact, having this earmarked source would allow us to free up some of the General Fund moneys and we would use instead, these Excise Tax moneys to fund part of the operations, but there might be a million or so for expansion. While we said it is up to three quarters percent (0.75%), we can start with half percent (0.5%). That can be determined by the Council. We are not talking about having eight million dollars (\$8,000,000) new moneys, but we are talking about some of those moneys being able

to replace General Fund moneys, which will free up General Fund moneys. Also, there is a need to reconfigure paratransit more efficiently, but right now as was pointed out, the Transportation Executive— her key operations person was taken out of the office and she is trying to do all she can to run the system well. The multimodal transportation study, which was very well-done, did compare, as Celia told us last week Wednesday, our system with other comparable systems around the Country: same size and same kind of service area, and we are running extremely efficiently. So you are trying to squeeze blood out of a turnip right now. They are on a very, very tight budget. Celia does not even have the staff to help do things like reconfiguring our paratransit. That is some of the moneys that an earmarked Excise Tax would give us. I also want to remind Councilmember Kagawa that he voted for in support of an Excise Tax for general purposes when the HSAC budget came up. We need to have some consistency here. If we are going to support an Excise Tax, I think we should really support it for an earmarked purpose of high priority.

Councilmember Kagawa: Again, we have to get facts straight. I did not vote for an Excise Tax increase. If you remember, what I voted for was... we had our TAT taken away last year, and I voted to have the Mayors... they all wanted it from all the Counties— they wanted the ability to go to the Legislature and ask for a half percent (0.5%) increase. That was merely what that approval was for the HSAC, which is to allow the Mayors to go and ask if they felt that it was needed to supplement their budgets. The City and County has it with the rail. We do not have a rail and we will never need a rail, but we may need moneys in the future to beef up our roads, which are bad; and beef up our transportation, which can be improved. But it is just premature— again, just build up a system that could possibly be improved right now. Let us make sure that the transportation is as efficient as possible, and then let us add money. Thank you.

Councilmember Chock: Any further discussion?

Council Chair Furfaro: I am sorry that I have been in and out for most of the day. I am working on two (2) resolutions that I would like to put on the table relatively soon before I depart. I want to get a couple of pictures here that are really clear to everybody that we are now saying that part of our shortfall is based on the fact that twenty-seven million one hundred thousand dollars (\$27,100,000) was taken away from us in the TAT and we agreed for three (3) years because we had a surplus. The value that we are talking about is "*kōkua* the State." Up until this year, we paid all of our liability for employment retirement funding. When we find ourselves not having that TAT money, it was extremely important because that is what put the pressure on the orange that got squeezed. That is very clear. That is fact. I gave this information to The Garden Island and I hope one day they might printed that commentary. What the Council of Mayors did and what the HSAC did was basically agree to look at another two (2) years of reduction in the TAT. The four (4) Council Chairmen said, "No, push the last Legislative Session for getting our fair share of the TAT back." What you all have to remember is that when the Chairs push for that, the reality is that it passed, and it did not pass for one (1) year; it passed for two (2) years. We are going to be short TAT money for two (2) years, not just one (1). I would think that whatever the case and whatever that option turns out to be on the GE tax, two (2) things happen: it has to be earmarked, so it does not get raided as "fat" for other expenses, whether than earmark is for roads, bus, or housing. It sends a message that it is earmarked. It is not to inflate additional costs associated with labor. For your Committee Meeting tomorrow, I did a summary and I hope everybody got it on the areas that are the largest concern. Transportation has to grow. Gas prices are falling. That means less contribution

on the taxes for the roads. You have a lot of variables going on is what I am saying. I am not sure if I support this because I want to agree with Councilmember Kagawa that we do not want to play our trump card early and send the message that we are willing to do the GE tax, but I am saying that the TAT is already in place for two (2) years, so you probably want to defer this item until you get through this legislative term, and then you have a clear understanding. That is just strategic thinking, which is very difficult for us to do, based on the fact that we shoot in two (2) year terms here. If you think about the twenty-seven million one hundred thousand dollars (\$27,100,000) that was capped for three (3) years and the eighteen million dollars (\$18,000,000) over the next two (2), there is going to be large shortfall that is going to exist. I do not think you need to make a decision today, but I do not think you would not want to do anything more than defer this. Again, I give my apologies because I have been working on a couple of items for later in the week.

Councilmember Chock: Further discussion?

Councilmember Hooser: Any deferral, unless it was a deferral indefinitely, I think we should deal with it now. If it is a long deferral, I am okay with that, but I do not see any sense on having anything come back on the agenda if there is no will of the Council to move it forward.

Councilmember Chock: I believe the request to defer will be to December 17th with the new Council.

Councilmember Hooser: Is that 2015?

Councilmember Yukimura: This year, 2014.

Councilmember Hooser: Okay. Thank you.

Councilmember Yukimura moved to defer Resolution No. 2014-46 to the December 17, 2014 Council Meeting, seconded by Councilmember Bynum.

Councilmember Chock: Any further discussion on this item?

Councilmember Yukimura: There is no discussion on a motion to defer.

Councilmember Chock: Yes, I am sorry. Do we do a roll call on this?

Council Chair Furfaro: Excuse me. Did I hear a deferral to December 17th?

Councilmember Chock: That is correct.

The motion to defer Resolution No. 2014-46 to the December 17, 2014 Council Meeting was then put, and carried by a vote of 4:3:0 (*Councilmember Hooser, Councilmember Kagawa, and Councilmember Rapozo voted no.*)

Councilmember Chock: We will see it again.

Councilmember Yukimura: Thank you.

Councilmember Chock: I did not get to say anything, but there you go.

Council Chair Furfaro: You will see it again.

Councilmember Chock: Yes. Next item, please. Are we going to the Executive Sessions now?

Ms. Fountain-Tanigawa: There was the ADU Bill at 3:00 p.m. and there are also some Executive Session items.

Councilmember Chock: Someone said that they wanted to go to Executive Session, but I am happy to take the ADU since people are here. Can we do that? Let us read that.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2545) – A BILL FOR AN ORDINANCE AMENDING SUBSECTIONS 8-15.1(B) AND 8-15.1(D), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL DWELLING UNIT ON OTHER THAN RESIDENTIALLY ZONED LOTS: Councilmember Kagawa moved for passage of Proposed Draft Bill (No. 2545) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 10, 2014 at 8:30 a.m., and that it thereafter be referred to the December 10, 2014 Planning Committee Meeting, seconded by Councilmember Yukimura.

Councilmember Rapozo: Mr. Chair, I am going to be introducing this amendment per request, which has been circulated and it basically changes the fee from seven hundred fifty dollars (\$750) to five hundred dollars (\$500) for the initial registration with a no cost regulatory fee for each subsequent year.

Councilmember Rapozo moved amend Proposed Draft Bill (No. 2545) as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Kagawa.

Councilmember Chock: Councilmember Hooser.

Councilmember Hooser: I have a question for the introducer. What is the no cost regulatory fee?

Councilmember Rapozo: It means no annual reoccurring fee.

Councilmember Hooser: Okay.

Councilmember Rapozo: I did not draft it though.

Councilmember Hooser: Okay. My follow-up is a process question. Would we not entertain this after we have a public hearing and have more discussion on this?

Councilmember Rapozo: We can call up the Deputy Planning Director.

Council Chair Furfaro: Let me add something. This Bill for the extension was introduced by myself. It went to the Planning Commission for their review. What came back was what Mr. Rapozo is suggesting. That was the recommendation of the Planning Commission. That can be amended as you through the other particular readings and get public comment and should be clearly

understood right now because you could amend it to change the dollar amount. The critical piece that I want to share right now is this critical path that you have here. If the Bill goes through, the old Bill expires on December 15th. We have an interpretation from the County Attorney that we are within a reasonable amount of time and the Bill was introduced prior to the expiration, you could still deal with it, so there is some critical time here. That is all I wanted to say. If you want further clarification, I think you should call up the County Attorney.

Councilmember Yukimura: If Councilmember Rapozo is making this amendment by request, who is the requester? Is it the Planning Department?

Councilmember Rapozo: The Planning Director had a different version where he recommended that we charge an annual fee. The Commission recommended a five hundred dollar (\$500) fee. This verbiage is kind of confusing, the "no cost regulatory fee," and it probably will be removed at a later time. I am not going to waste any more time today on that. We can definitely clean that up in the Committee Meeting.

Councilmember Chock: My plan is that we will call up the County Attorney to vet this, but if you have a question? You can clarify it now.

Councilmember Kagawa: I have been informed by Staff that I would like to provide some clarification to the Council. As Council Chair Furfaro mentioned, we have a due date of December 15th and the plan is, as I was informed by Staff, to have the public hearing on December 10th at 8:30 a.m. and the Planning Committee will be handling it later that day or shortly after that day because the Planning Committee is first. The Council Staff and the Chair has tried to expedite, so that we do not go too far beyond the December 15th and come to a conclusion. Thank you.

Councilmember Chock: Understood. I am going to suspend the rules. Can we have the County Attorney up for this item? I will give the floor to Councilmember Bynum for the question.

Council Chair Furfaro: Point of clarification. I do want to say that the County Attorney that is working on the Bill is Mr. Jung and I do not see him here.

There being no objections, the rules were suspended.

ALFRED B. CASTILLO, JR., County Attorney: Council Chair and Councilmembers, good afternoon. Al Castillo, County Attorney. Council Chair is correct. Deputy County Attorney Ian Jung is on this matter and unfortunately he is under the weather today and cannot be here, so I would not be able to answer your question. We would need time. Thank you.

Councilmember Chock: Before I let him go, are there any other questions? If not, thank you. I will call the meeting back to order.

There being no objections, the meeting was called back to order and proceeded as follows:

Councilmember Bynum: I just want a point of clarification still if anybody can answer. If this was the Planning Commission's recommendation, then why did it not come in that version? That is what they passed? I just want to

understand. I am in support of this, personally. I just want to know where it came from.

Councilmember Rapozo: It came from the Planning Commission. The Bill that you see, pre-amendment, is our Bill.

Councilmember Bynum: I see.

Councilmember Rapozo: It went across to the Planning Commission, went through the process, and the Planning Commission came up with the recommendation to add this language and remove the bracketed area, so this is the Planning Commission's recommendation.

Councilmember Bynum: Okay. For what it is worth, I am fine with this. I will not be here for the final vote, but I would support this.

Councilmember Chock: Councilmember Yukimura.

Councilmember Yukimura: Just to be clear about the process, December 15th, the Bill expires; December 10th we have public hearing; and it goes to the Planning Committee on the same day. Are we having a special meeting before the 15th or are we having final reading of the Bill on December 17th at our regular meeting?

Council Chair Furfaro: Let me clarify this. I will not be here either, but this original piece was my bill and I have been working with Ian them. When Mr. Kagawa said that the plan would be that we would have the public hearing in 8:30 a.m., it is for the accommodation of that critical time, and then it would come out of the public hearing in the morning and go right into the Planning Committee on that day. That gives us seven (7) days until the next full Council Meeting, which will only be two (2) days what is targeted as the expiration date. What I have from Mr. Jung, who is not here today, is because the Bill had gotten through first reading, public hearing; that it is reasonable to approve it on the 17th without any consequences. He is not here to answer that question though.

Councilmember Yukimura: Okay.

Councilmember Chock: The other clarifying question is whether or not we should move towards public hearing first before entertaining the amendment. Any other discussion on that? Go ahead.

Councilmember Yukimura: I can see the reasonableness of the proposed amendment, but I would like to have a chance to read the full document of the Planning Commission and hear the Planning Department also, whom I presume will be at the Committee Meeting. I see Dee is here too. Rather than have a full discussion on the amendment, I would prefer if we could just defer it to after the public hearing.

Councilmember Chock: Thank you. Any other comments?

Councilmember Hooser: If time is of interest, it does not seem like this would hold anything up, so whether we approve it today or we can approve it after we have some discussion on it. I cannot see it delaying the process unless I am missing something.

Councilmember Chock: I do not think so either. I do see our Deputy Planning Director here, so if you folks want to, I can suspended the rules, take public testimony, and then we can come back to finalizing this. Any questions for him? If not, I will suspend the rules anyway for public testimony. Would anyone like to testify on this item?

Ms. Fountain-Tanigawa: We have a few registered speakers. The first registered speaker is Chris Hayden, followed by Jesse Fukushima.

Councilmember Chock: Is Chris present? No. Okay, Mr. Fukushima, you may come up. Thank you for being patient with us today. It has been a long day.

There being no objections, the rules were suspended.

JESSE FUKUSHIMA: My name is Jesse Fukushima. I would be open to questions. Primarily, we have been following this process pretty much with the Planning Commission and the Planning Department. As you folks all know, it was the Planning Director that recommended going along with the seven hundred fifty dollar (\$750) fee per annum and a fee structure every year after that. The Planning Commission opted to say, "Look, the very same people that we are trying to help, we are putting these fees on." So they came up with the interpretation saying, "one-time charge," I believe was five hundred dollars (\$500) for the first year and after that, no fee. My only concern is that in the event that should the new Council decide to... because you are going to have new members, and say, "We would like to defer this to study it for maybe one (1) or two (2) more weeks." How would that affect the process now? That is my only concern.

Council Chair Furfaro: That is why we are waiting for the opinion from Mr. Jung.

Mr. Fukushima: Okay. Thank you.

Councilmember Chock: Thank you. Would anyone else like to testify on this item?

Ms. Fountain-Tanigawa: The next speaker is Patricia Lyons, followed by Michael Andrade.

PATRICIA LYONS: Hi. My name is Patricia Lyons. I was born and raised on Kaua'i and I am of Hawaiian decent. I am asking on behalf of my late father, my mom, myself, and my two (2) young brothers, that you please extend the additional dwelling units indefinitely with no fees. My goal is to ensure that my younger brothers and I will be able to build in the near future when we are more able to afford it. We should have a chance to secure our futures and build a strong foundation for ourselves and our families. This process takes time and money, and the banks have not been lending due to the horrible economy. Ultimately, our goal is to secure our future by raising more farm animals and fruit trees so that we someday become more self-sufficient and self-sustaining. We are all hard workers who love to farm and work the land. Unfortunately, we are mostly on fixed incomes, so it is nearly impossible to build right now. We need more time to save and be able to afford to build. Please accept our sincere appreciation for your consideration in this very important matter. We appreciate all of your time and patience. Thank you very much.

Councilmember Chock:
Councilmember Kagawa: Thank you. We have a question here from

Councilmember Kagawa: Hi. Good to see you. Where is your property,
if you want to share it?

Ms. Lyons: It is in Kapa'a, 5171 Kaehulua Road.

Councilmember Kagawa: Is that Kapahi?

Ms. Lyons: It is a little bit above Kapa'a Middle School,
on the right in the valley.

Councilmember Kagawa: Thank you.

Councilmember Chock: Councilmember Yukimura.

Councilmember Yukimura: Hi. How many ADUs do you have? Is it just
one (1) that you are talking about?

Ms. Lyons: We have four (4) lots and on three (3) of
them, we can build one (1) each.

Councilmember Yukimura: Okay. So you are talking about three (3)
ADUs.

Ms. Lyons: Yes.

Councilmember Yukimura: That is a lot of impact in terms of housing
opportunities for your family.

Ms. Lyons: Yes. My younger adopted brother just had a
little baby boy, so they are looking out for his future, too.

Councilmember Yukimura: Yes.

Ms. Lyons: That is something my dad really wanted for
us.

Councilmember Yukimura: Okay. Thank you very much.

Councilmember Chock: Thank you. Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Michael Andrade,
followed by Tony Ricci.

Councilmember Chock: Michael is not present. Next speaker.

TONY RICCI: *Aloha*, Councilmembers. My name is Tony
Ricci. I live in Kekaha. Thank you for the jobs that you guys do. Winners or losers,
I appreciate all of your hard work. I know a lot of you personally as friends, not
only as fellow Hawaiians. It kind of scares me when I hear that this may get
pushed back again. My wife and I bought a lot in Kekaha Sunset and part of that
open agricultural lot was whoever builds first, the second person attached to that
lot, even though we are separate owners, we do not even know each other, becomes

the ADU. Well, our plan was for a retirement home, where eventually my twenty-eight (28) year old son would take over our house, and with the timelines that are being made, we did have a building permit done, but due to my personal injury, all of a sudden that house that we originally were thinking about doing in future was too big. I would not be able to afford it with my income now. So we have opted to try to do a smaller one. Well, this timeline that came up all of a sudden that we needed a permit and not knowing what answers we are getting between planning and building and what we have to do, if I can keep that permit or, "No, I cannot change it." I am in the twenty thousand dollars (\$20,000) numbers now. One set of plans is no good. We are scrambling to get a new set of plans done now because I have to have a permit by December 15th. We do not know what the judgment is going to be and what you are all going to decide, so we are still stuck having to scramble to come up with a blueprint and a new permit, which is another nine thousand dollars (\$9,000), which we do not know if you are going to do this. This is a serious strain. We are not doing this to build it and sell it. That was never the plan. We are not making more congestion. This is where some of these lots, who are ADU owners like myself, need to be looked at individually that this is a little neighborhood in Kekaha that was setup. We are not adding anything. The underground power is there and water meters are there. We are there. It is set up for this. When I hear "congestion," that is when I hear development world of twenty (20) acres and trying to put fifteen (15) to twenty (20) houses in the pasture. This is the scary part. We do not have the time. If this gets deferred and all of a sudden it is December 15th, and you are saying that you are going to give us an answer one (1) or two (2) days ahead of that or one (1) or two (2) days after that; we still have to do that. Hopefully you can see the big picture.

Councilmember Chock: Thank you, Mr. Ricci. We have a question for you.

Councilmember Kagawa: Tony, thank you for your testimony. I am trying to picture this Kekaha Sunset. Is that where the Kekaha Gardens park is?

Mr. Ricci: No, the old Kekaha swimming pool, right by the community center.

Councilmember Kagawa: Okay.

Mr. Ricci: So if you are there, all the houses that went it, they were done in open agriculture and we were like the last lot to be built on.

Councilmember Kagawa: That is not beachfront, right?

Mr. Ricci: The house in front of us is beachfront. We are the one right behind it.

Councilmember Kagawa: This is an agricultural lot?

Mr. Ricci: This is an open lot.

Councilmember Kagawa: Okay. Thank you.

Councilmember Chock: Anymore speakers?

Ms. Fountain-Tanigawa: Harvest Edmonds is the last registered speaker.

Ms. Edmonds: *Aloha* again Councilmembers. I am definitely in support of extending the ADU law. Right now, there is a huge housing crisis on Kaua'i and as a Realtor, I see that weekly. I get calls from people and friends that are in dire need of a place to live and I think this ADU, the extension of it, will help that out. This is the first I had heard about any kind of possible yearly fees for it, which I do not approve of that. I think if you are going to have a fee at the beginning, that would work, but to extend a yearly fee would make it a hardship on the owners and the intention of what this law is for. Thank you.

Councilmember Chock: We have a question here.

Councilmember Yukimura: Hi, Harvest. Thanks. Will these ADUs become primary homes or will they become second homes?

Ms. Edmonds: I cannot really answer what they are going to be. Obviously, the intention of it is for your *'ohana* or someone close that you would like to extend out to your family.

Councilmember Yukimura: In your experience as a Realtor, how many actually become primary and how many second homes?

Ms. Edmonds: I have never really looked at that, so I really cannot answer that. I know some go both ways.

Councilmember Yukimura: Okay. Thank you.

Ms. Edmonds: One way or the other, whatever way it goes, it does create more housing, which is important.

Councilmember Chock: You have another question from the Council Chair.

Council Chair Furfaro: I just want to get something clarified here because I do not want any misunderstandings out in the community. The first extension the ADUs was introduced by myself and it required people to declare that they had an intention to build an ADU, and it was driven by the financial issues at the time, when financing was very loose. It was questionable at how people added units. So then when the market fell out and mortgages got tight, we put in the first extension and you had to declare your intention to build, apply, and get a certification. When you say this extension of the ADU law— no, this is the extension of those that have certificates. It is not a law and I did not think that what I heard from you that you understood that.

Ms. Edmonds: Yes, I may not understand.

Council Chair Furfaro: There are three hundred thirty (330) certificates out there that are people who declared, because of the financial situation, that they could not qualify to build their ADU and therefore applied.

Ms. Edmonds: Okay. Thank you.

Council Chair Furfaro: That is real important for me. I also want people to understand that the Council moved on this bill a lot earlier, but when it went to the Planning Commission, it went through three (3) months of public

hearings, which was not anticipated, which is causing this crunch within the two (2) days. That is why we setup the schedule, so that on the 10th of December, we will have the public hearing in the morning and hear the bill when we call the Committee Meeting back. That is to make up for the long public process that was in Planning. Just so that we are clear.

Ms. Edmonds: Thank you.

Councilmember Chock: I am sorry. I think we have one more question from Councilmember Yukimura.

Councilmember Yukimura: Yes, it is a takeoff from what the Chair has just said. We are not allowing the creation of more ADUs. This is a group of ADUs that have been grandfathered in when the law passed to not allow any more ADUs on agricultural land. Were you advocating that we change the law to allow ADUs on new agricultural land or are you talking about the ADUs that have been grandfathered in, but were required to be built within a certain time and now the question is whether to give them more time to build?

Ms. Edmonds: Well, I actually would like to see that ADU extension happen in in that sense, so that more can be created, but I understand what this Bill is for.

Councilmember Yukimura: Thank you for clarifying.

Councilmember Chock: Would anyone else like to testify? Seeing none, we will call the meeting back to order. I think we have an option to call for the question or to defer this item. Any further discussion, members?

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Rapozo: I only introduced it because it was requested. Whatever you guys want to do is fine with me.

Councilmember Chock: Councilmember Kagawa.

Councilmember Kagawa: We sent it over to the Planning Commission and they did three (3) months of review and they recommended a fee, so I think it would be better, in my opinion, that we do the amendment now, so that on the public hearing date, the public can testify as to whether they agree with what the Planning Commission recommended. If changes are needed or if the public wants an annual fee, then we can amend it at that point. I think we should amend it now, so that it fulfills the purpose of what we wanted. We wanted the Planning Commission... Chair Furfaro recommended that and I agreed with that decision to send it over to the Planning Commission for them to do their review because it is both their *kuleana* as well as ours. Thank you.

Councilmember Chock: Any further discussion? Councilmember Yukimura.

Councilmember Yukimura: I feel like when the Planning Commission has made recommendations, it comes back in a new bill to us, which we introduce.

Council Chair Furfaro: Excuse me. There is a correction on that.

Councilmember Yukimura: If this is an oversight that was made when the bill was first introduced— anyway, I think the better procedure if we make amendments is after public hearing and in Committee, and this thing needs to be better written as well. At this point, I guess it is six (6) of one-half dozen (6) of the other to pass this not completed and not well-written amendment, and then amend it in Committee later.

Councilmember Chock: Sounds like we can vote on this.

The motion to amend Proposed Draft Bill (No. 2545) as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1 was then put, and unanimously carried.

Council Chair Furfaro: I just want to make a point. The amendment that came over was written by the Planning Commission, just so that we are clear.

Councilmember Chock: The amendment passed. On the main motion?

Councilmember Yukimura: On first reading.

Councilmember Rapozo: I just have a quick comment.

Councilmember Chock: Go ahead.

Councilmember Rapozo: I will be asking Staff to prepare an amendment for the Committee at the Committee point, that this entitlement, which is an entitlement that was granted back in past because of the reasons that the Chair stated, in my opinion, should be restricted to the landowner that owns that certificate or that registration and should not be transferable. To the Staff, for the record, if you could start preparing an amendment that would allow us to prohibit the transfer of these entitlements, should the properties be sold because the intent was for those existing landowners back then that were having difficult times securing mortgages because of the economic downturn, that we would allow them the opportunity to pursue their ADU at a later time. What I do not want to see is that we just increase the values of these properties because we are giving the future owners of that parcel the entitlement, so I would just ask that we pursue that. Thank you.

Councilmember Chock: I just wanted to clarify because it seems like there are two (2) requests: one request that you are making here and another one to clean up the language on it. Would you be willing to put that together?

Councilmember Rapozo: Yes. Maybe they can remove that “no regulation”... I am not sure what the heck that meant but, “An initial regulatory fee of five hundred dollars (\$500) shall be charged upon initial registration.” That should be sufficient. We can do that in the same amendment for the Committee. Thank you.

Councilmember Chock: Councilmember Yukimura.

Councilmember Yukimura: I understand and agree with the intention that Councilmember Rapozo has articulated right now, but I think there might be some constitutional issues. I would like to ask that either before December 10th or

on December 10th at the latest that we schedule an Executive Session, which may be needed to confer with the County Attorney on the amendments and on the process of this passage of the Bill two (2) days after the Bill expires.

Councilmember Chock: Great. Council Chair.

Council Chair Furfaro: I would just strongly suggest that when the amendment is written, it then goes to the County Attorney for a legal review, rather than say, "Let us schedule an Executive Session." That amendment should go to the County Attorney for a legal review.

Councilmember Yukimura: I totally concur with that, but the process after that may be that we need to discuss the matter after the Attorney has reviewed it. Thank you.

Councilmember Chock: Councilmember Bynum.

Councilmember Bynum: I do not know what the Chairs of the Committees or the Council's indulgence is, but given the way this dialogue has just gone, I appreciate the opportunity to ask questions of Mr. Fukushima again, if it is okay.

Councilmember Chock: This is a time sensitive issue, so I will suspend the rules to have Mr. Fukushima come up.

Councilmember Bynum: Sorry to belabor.

Councilmember Chock: That is okay.

Councilmember Bynum: Hi, Jesse. Thank you. We talked previously, but I just want to ask you a few quick questions. I think you know these answers, but let me know if you do not. This Bill impacts about how many homeowners?

There being no objections, the rules were suspended.

Mr. Fukushima: Approximately between three hundred thirty (330) to three hundred fifty (350) at the max.

Councilmember Bynum: Three hundred thirty (330) to three hundred fifty (350).

Mr. Fukushima: Yes.

Councilmember Bynum: These are all folks who performed and earned this previously.

Mr. Fukushima: Right.

Councilmember Bynum: They are mostly people who are residents. Is that correct?

Mr. Fukushima: When we looked at the list and did our research, I would say that at least eighty percent (80%) of these people are resident owners and twenty percent (20%) are absentee owners.

Councilmember Bynum: Okay. Thank you. I wanted to know that. I do not have any further questions.

Councilmember Chock: Councilmember Yukimura, do you have a question?

Councilmember Yukimura: Yes. Jesse, thank you for being here and all of your work. Have any certificates been transferred from the original holders?

Mr. Fukushima: I am only going to speak of what I see from the Hawai'i Information Service and I am only going to assume that to a certain extent, yes, there has been some sales of properties with the ADU permits attached to the property. What those percentages are, I am not sure.

Councilmember Yukimura: Okay. Thank you.

Councilmember Chock: Thank you, Jesse. I will call the meeting back to order. Councilmember Bynum.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Bynum: Again, I will not be here, but hearing about an amendment that says that we are going to try to restrict this entitlement—I have been involved in this issue for a long time. I was new on the Council when we extended this and I remember us all saying, “Hey, this is it. This is the last one.” But the world has turned upside down since then and I have read the letters from many people who said with their personal stories, *kama'āina* stories, about their hopes and dreams for their families. We are talking about three hundred thirty (330) to three hundred fifty (350) people who have hung in there and jumped through hoops previously. If I was still on the Council, I would be considering an amendment to say, “Let us get rid of this already. These are entitlements. You have them. Do what you want with them. Let us get this issue over with and move forward.” I guess if I was one of those three hundred (300) people that have been corresponding with me for some time, I would be really nervous hearing about, “This is going to be a different Council. Maybe we are going to put some restrictions on it that have not already been contemplated.” This went through our Planning Commission. I am happy to accept their recommendations and put this issue, which has been with us for many years, that really impacts mostly *kama'āina* people, as I understand it. Let us put it to bed and not have more strings and more hoops. The amendment is a good step in that direction, but it is scary to hear... these are just my comments for the future. Thank you.

Councilmember Chock: Councilmember Hooser.

Councilmember Hooser: Just briefly, to be clear, we are talking about two (2) amendments, not one (1) amendment, I hope— one that cleans up the language that we just passed and the other amendment is the one that Councilmember Rapozo has discussed. So they are not going to be combined and presented on one? They are going to be presented separately as separate amendments, I would hope. I also have concerns about...

Councilmember Rapozo: Yes, that sounds like that would probably be the better way.

Councilmember Hooser: Yes. I also have concerns, even though I understand the rationale behind it. If a homeowner builds their 'Ohana then certainly I would hope that they would be able to sell the property with the 'Ohana, so it is an entitlement and it is what it is. We can discuss that further when the actual amendment gets... I just wanted to make sure that they were separate amendments. Thank you.

Councilmember Chock: Thank you. We have two (2) separate amendments. Any further discussion?

Councilmember Kagawa: First of all, I would just like to say that I think as I read testimony coming over the months, I understand the hardships and the reasons because I was pretty much in the same boat. I built two (2) houses in Waimea Valley in 1992 and it cost me about one hundred forty thousand dollars (\$140,000) self-build, to put up the two (2) houses. If you compare that amount to what it would cost now for me to build those two (2) houses, I think it is probably triple that amount. The hard times with inflation and shipping costs are just incredible. I think this is a time when I can definitely see, even at first reading, that we need to help these people. This could possibly be two hundred fifty (250) to two hundred sixty (260) local families that could be getting these houses and have the home of their dreams and raise their families, so I am really inclined to get this on a rush, so that we do not get too far from the deadline. Thank you.

Councilmember Chock: Thank you. Any further discussion? I, too, am supportive of moving in this direction. I actually was hesitant listening to the different concerns as we move forward, but I see that this will definitely benefit more of our people and is needed at this time. I think that we also need to take into consideration any abuses that we have experienced in the past. Certainly like what the 'Ohana dwelling stood for in this original intent, I could see its use. With that, let us take a vote on the main motion as amended.

The motion for passage of Proposed Draft Bill (No. 2545), as amended, on first reading, that it be ordered to print, that a public hearing thereon be scheduled for December 10, 2014 at 8:30 a.m., and that it thereafter be referred to the December 10, 2014 Planning Committee Meeting was then put, and carried by the following vote:

FOR PASSAGE:	Bynum, Chock, Hooser, Kagawa, Rapozo,	
	Yukimura, Furfaro	TOTAL - 7,
AGAINST PASSAGE:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Councilmember Chock: Can we move to the next item, please?

Ms. Fountain-Tanigawa: The next item will be the Executive Sessions.

Councilmember Chock: I would like to call the County Attorney up at this time. As far as I know, we will not need to come back out to a vote out here, so if you could read all of them.

There being no objections, the rules were suspended.

Mr. Castillo: Council Chair and Councilmembers, good afternoon. Al Castillo, County Attorney. I will read the Executive Session items for you.

EXECUTIVE SESSION:

ES-767 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-768 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and (8) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with briefings regarding Dustin Moises v. Department of Personnel Services, County of Kaua'i, et al., Civil No. 13-1-0209 (Fifth Circuit Court), to obtain settlement authority, and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-769 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session for Council to consult with the County Attorney regarding the Council's release of the County Attorney's legal opinion dated July 29, 2014 on Bill No. 2546, Draft 1, relating to real property taxes, and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Rapozo moved to convene in Executive Session for ES-767, ES-768, and ES-769, seconded by Councilmember Kagawa.

Councilmember Chock: Any discussion?

Councilmember Hooser: Yes. I want to ask the County Attorney a question. On ES-768, could you give us a little more on what the nature of the complaint is?

Mr. Castillo: I will call up Deputy County Attorney Stephen Hall.

Councilmember Hooser: Okay. I just want a little more information. Is this a County employee, grievance action, or is it a private person? What is the nature of the action?

STEPHEN F. HALL, Deputy County Attorney: Good afternoon Chair, Vice Chair, and Councilmembers. Deputy County Attorney Stephen Hall. The nature of the action is a two (2) part complaint dealing with age discrimination and intentional infliction of emotional distress. The employee is a current employee of the Department of Water.

Councilmember Hooser: So it is an employee of the Department of Water alleging that there was discrimination by the County of Kaua'i? What was the other one?

Mr. Hall: Intentional infliction of emotional distress. So emotional distress related to the age discrimination.

Councilmember Hooser: Okay. So we will be asked to discuss settlement?

Mr. Hall: That is correct.

Councilmember Hooser: Okay. Thank you.

Councilmember Chock: Any other questions for our County Attorneys before we head into Executive Session? Seeing none, I will call the meeting back to order. Discussion? If not, can I call for the vote?

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to convene in Executive Session for ES-767, ES-768, and ES-769 was then put, and unanimously carried.

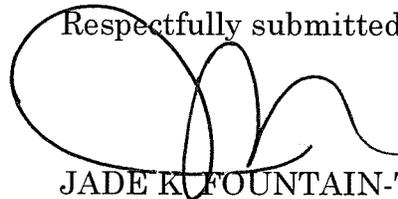
Councilmember Yukimura moved to adjourn the November 5, 2014 Council Meeting, seconded by Councilmember Bynum, and unanimously carried.

Council Chair Furfaro: We are now adjourned. Thank you.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:46 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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(November 5, 2014)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2545), Relating to Additional Dwelling Unit on Other Than Residentially Zoned Lots

Introduced by: Mel Rapozo (By Request)

Amend Proposed Draft Bill (No. 2545), Section 3, by amending the proposed subsection 8-15.1(d)(7) as follows:

“(7) The applicant shall obtain an annual re-certification from the Planning Department certifying that applicant has met the requirements set forth in Sec. 8-15.1(d)(6). [An annual administrative processing fee of Seven Hundred Fifty Dollars (\$750.00) shall be paid to the Planning Department prior to issuance of the re-certification.] An initial regulatory fee of Five Hundred Dollars (\$500.00) shall be charged upon initial registration with a no-cost regulatory fee each subsequent year. Beginning in 2015, the annual re-certification shall be obtained on or before February 15 and shall cease to be required upon publication of the “Notice of Completion” by applicant. If the applicant fails to obtain the annual re-certification by February 15 of the applicable year, the entitlement to the additional dwelling unit shall be deemed terminated and no building permit shall be issued for the additional dwelling unit. The Planning Director shall notify the applicant in writing that the entitlement to the additional dwelling unit has been terminated. The applicant may appeal the termination to the Planning Commission in accordance with the Rules of Practice and Procedure of the Planning Commission.”

(Material to be deleted is bracketed. New material to be added is underscored. All material is new.)

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